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THE LIFE AND CORRESPONDENCE
OF
PHILIP YORKE
LORD CHANCELLOR HARDWICKE

IN THREE VOLUMES
VOLUME I

Works by the same Author:

Letters of Princess Elizabeth of England,
Daughter of George III and Landgravine of
Hesse-Homburg, written for the most part to
Miss Louisa Swinburne. T. Fisher Unwin,
London, 1898

A Note-Book of French Literature, 2 vols.
Blackie & Son, 1901, 1904

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'Sir Philip Yorke, Attorney General.'
from a portrait by J. Hudson

THE LIFE AND CORRESPONDENCE
OF
PHILIP YORKE
EARL OF HARDWICKE
LORD HIGH CHANCELLOR OF
GREAT BRITAIN

by

PHILIP C. YORKE, M.A. Oxon.,
Licencié-ès-Lettres of the University of Paris

And a man shall be as an hiding-place from the wind, and a covert from
the tempest; as rivers of water in a dry place, as the shadow of a great rock
in a weary land.

Isaiah xxxii. 2.

O could I flow like thee, and make thy stream
My great example, as it is my theme;
Though deep, yet clear; though gentle, yet not dull;
Strong without rage, without o'erflowing full.

DENHAM, *Cooper's Hill*.

VOLUME I

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PREFACE

IT may be convenient to preface the present account of the life of Lord Chancellor Hardwicke with a mention of those biographies which have preceded it.

It is much to be deplored that his two eldest sons made no attempt to record their Father's great career. They were well qualified for the task. The second Earl of Hardwicke was a person of ability in letters and of historical insight and knowledge, and of sound political judgment. He had shared his Father's confidence, and was well instructed and informed regarding the political events and secrets of the time; he knew the part which his Father had taken in them and the motives and aims of his conduct. He could have recorded for us, as he has done in his sketch of Sir Robert Walpole, those personal touches and details which are now wanting. These qualifications were possessed equally by his brother, Charles Yorke, who, moreover, as one of the most learned and the most literary lawyers of the day, one who was actually succeeding his Father in his various offices and who had frequently practised in his court, would have been capable, as no one else can ever be, of describing his judicial methods and the nature of the great developements in equity inaugurated by him. In some ways, however, we have now better means for elucidating the facts and better material for forming a right judgment than they had. We have a vast mass of contemporary narrative and correspondence that was denied to them; while the real nature and results of the statesmanship of those times, and the genius and character of the chief actors, appear much more clearly than in their own day. Moreover, we are able to take a wider view and consider things in a juster proportion than was possible for them.

The result, however, has been that scarcely any great figure in history has been handed down to posterity so falsified and misrepresented, or presented in so mean a shape.

Lord Campbell was the first, in 1846, to publish a Life of Lord Chancellor Hardwicke. Here was a great opportunity for the production of a biography worthy of the subject. Lord Campbell followed Lord Hardwicke in his great offices of Lord Chief Justice and Lord Chancellor. He had considerable literary

abilities. He was engaged in a great and ambitious undertaking, no less than the series of the lives of the Lord Chancellors, for 1000 years, from the earliest times to his own ; and in this we should expect to find the life of Lord Hardwicke, perhaps the greatest of them all, together with his period, the golden age of equity, treated as the crowning glory of the work. It is well known how greatly the anticipations and hopes formed of Lord Campbell's biographies were disappointed. There is probably no book of modern times of equal pretensions that contains so many and such gross errors, and so many base and baseless innuendoes. But of the whole bad series, the life of Lord Hardwicke appears to be the worst. Here are to be found not only the common mistakes of ignorance or negligence, not only the common errors of judgment, but a deliberate picking and choosing amongst falsehoods to which it is astonishing that the author could have condescended. Throughout no one could suppose the narrative to be that of a distinguished judge, trained to weigh evidence and to administer justice and equity, zealous for the honour of his profession and offering to the public the portrait of his greatest predecessor. The consequences have been deplorable. Lord Campbell's work continues to be widely read ; new editions continue to be published, and a number of later writers, misled perhaps by Lord Campbell's great name, continue to copy from his untruthful pages and carry further the false traditions there established. For example, the writer of the most recent account of Lord Hardwicke, that in the last edition of the *Encyclopædia Britannica*, has been content to found his article on the same worthless "high" authority, although in the same publication, in the article on Lord Campbell himself, he is warned of the character of Lord Campbell's writings, and in particular that the Life of Lord Hardwicke is amongst his worst productions.

Meanwhile George Harris, a barrister of the Middle Temple of some standing, had been preparing a Life of Lord Hardwicke from the family papers at Wimpole, which was published in 3 volumes in 1847, immediately after Lord Campbell's work. The author, however, appears to have been very ill-fitted for the task. He complains too of "not seeing any of the Wimpole papers until so late, then being only allowed a glance of them at Wimpole, instead of having them all before me, and only during the last half-year being allowed to take them away, and then merely a portion at a time!" In the circumstances it is surprising that the

¹ *Autobiography*, 155.

book was no worse. A number of letters of the highest interest were now published for the first time, which threw new light on many incidents and characters of the period. The material, however, was printed in disjointed portions, mostly without notes or explanations, and formed no connected or intelligible history of the time, still less any portrait of the subject of the biography. Moreover, Mr Harris was a candidate for legal office, and Lord Campbell's errors and misrepresentations were not refuted with sufficient clearness and decision.

Such, however, has been the only alternative to Lord Campbell's work, with the exception of the short but excellent account written by Edward Foss, F.S.A., in his *Lives of the Judges*, in 1884, and the short notice in the *Dictionary of National Biography*, which, however, adds little to the facts already extant.

An opportunity of writing a complete Life of Lord Hardwicke was first afforded in 1899, when the Hardwicke MSS. from Wimpole, of more than 1000 volumes, were purchased by the Trustees of the British Museum. The Chancellor's correspondence and papers were now first arranged in order and made accessible. At the same time a volume containing the second Earl of Hardwicke's Parliamentary Journal and other papers, which by some mischance had strayed from the family collection, was in addition acquired. By good fortune, moreover, the MSS. of the Duke of Newcastle had ten years earlier been also deposited in the British Museum, and these two great collections, which supplement each other and contain the private correspondence between the Duke and the Chancellor for 30 years, were now for the first time joined together and placed at the disposal of the student of history. These now constitute the greater portion of the present volumes, and are the chief authority for the facts and opinions advanced therein; and the present author has subordinated and curtailed his own narrative, in order to present the original correspondence as fully as possible, except in the chapter on the Chancellor's work in equity. Here it has been sought by gathering up the details into a few, large, clear and fundamental principles to present to the reader a broad and comprehensive, though of course technically imperfect, review of Lord Hardwicke's great work in the Court of Chancery, and to treat it in its personal rather than in its legal aspect, as illustrating his character and the nature of his intellect rather than the principles of law evolved and developed.

Besides the correspondence published in Harris's *Life of Lord Hardwicke*, and already mentioned, some letters of the earlier

period from the Newcastle MSS. were printed in Archdeacon Coxe's works on Sir Robert Walpole, and Henry Pelham, and in his Life of Horace, Lord Walpole, and some few of the later period from the Hardwicke MSS. by Lord Albemarle in the *Rockingham Memoirs*. Others will be found in the *Chatham Correspondence*, in Lord Anson's Life, in the *Culloden Papers*, and elsewhere, and a small series of letters from the Hardwicke MSS. between the Chancellor and Archbishop Herring was printed by the late Dr Richard Garnett in the *English Historical Review*. The greatest portion, however, of the whole correspondence is now published for the first time, and the whole appears for the first time annotated and systematically arranged.

The spelling has been modernised for the sake of convenience, except in the case of a few letters where some interest seemed to be attached to the exact reproduction of the manuscript; and stops have been added and varied throughout.

Abbreviations, especially in the case of proper names, have been extended, but only in those instances when no doubt whatever existed; in all others the addition appears within square brackets. Words and passages underlined in the manuscript have not been reproduced in italics except when special emphasis seemed to be intended by the writer, as it was found that the greater part of such underlinings were the work of other hands, generally of the recipient. The years have been dated according to the new style and calendar, reckoning the beginning of the year from the 1st of January.

Since the present work has been to press, a further volume of Lord Chancellor Hardwicke's papers, numbered Add. 38161, has been fortunately acquired by the Trustees of the British Museum, consisting chiefly of his notes of debates and speeches in the House of Lords, which, however, had already been reproduced in this biography from other sources.

PH. CH. Y.

98, ADDISON ROAD,
LONDON, W.
March, 1913.

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ILLUSTRATIONS

Sir Philip Yorke, as Attorney-General, from a portrait by Thomas Hudson, with the kind permission of the late J. R. Yorke, Esq., in possession of V. W. Yorke, Esq., of Forthampton Court	<i>frontispiece of vol. I.</i>
Sketches at the trial of Lord Lovat, of the Lord High Steward, the prisoner, and other figures, by William Hogarth, from the original at the British Museum	<i>to face p. 574.</i>

ABBREVIATIONS USED IN THIS WORK

- Add.=Additional MSS. in the British Museum.
Almon=John Almon, *Anecdotes of the Earl of Chatham* (1793).
Ambler=Reports of Cases in Chancery by Charles Ambler (1828).
Andrews=Reports of Cases in the King's Bench by G. Andrews (1792).
Annaly=Cases in the Court of King's Bench by John, Baron Annaly (1770).
Atkyns=Reports by J. T. Atkyns (1794).
Barnardiston=Reports of Cases in Chancery (1742) and Reports of Cases in the King's Bench (1744) by T. Barnardiston.
Bedford Corr.=Correspondence of John, fourth Duke of Bedford (1842).
Buckinghamshire Corr.=Buckinghamshire Correspondence (Royal Hist. Society, 1900).
Caldwell Papers=Caldwell Papers (Maitland Club, 1854).
Campbell=Lord Campbell's Lives of the Chancellors (1846).
Chatham Corr.=Correspondence of the Earl of Chatham (1838).
Chatham MSS.=Collection of Chatham MSS. in the Record Office.
Comyns=Sir J. Comyns, Reports ed. by S. Rose (1792).
Cooper=C. P. Cooper, *Chancery Miscellanies* (1850), *Brief Account of the Court of Chancery* (1828).
Cox=S. C. Cox, Cases in the Court of Equity (1816).
Coxe's Pelham=W. Coxe, *Memoirs of Henry Pelham* (1829).
Coxe's Walpole=W. Coxe, *Memoirs of Sir Robert Walpole* (1798).
Coxe's Lord Walpole=W. Coxe, *Memoirs of Lord Walpole* (1808).
Cunningham=Reports of Cases in the King's Bench by T. Cunningham (1766).
Dickens=John Dickens, Reports of Cases in Chancery (1803).
Dict. Nat. Biog.=Dictionary of National Biography.
Dodington's Diary=G. Bubb Dodington, Diary (1809).
Douglas=S. Douglas, Reports (1813-31).
Durnford and East=C. Durnford and E. H. East, Reports (1787 etc.).
Eg.=Egerton MSS. in the British Museum.
Fonblanque=J. F. Fonblanque, *Treatise of Equity* (1812).
Glover's Mem.=R. Glover, *Memoirs* (1814).
H.=Lord Chancellor Hardwicke, except in references, when
H.=the Hardwicke MSS. in the British Museum, namely Add. MSS. 35349-36278, numbered by vols., and in the signature of notes, when
H.=the second Earl of Hardwicke.
Harl.=Harleian MSS. in the British Museum.
Harl. Soc.=Publications of the Harleian Society.
Harris=G. Harris, *Life of Lord Chancellor Hardwicke* (1847).
Hervey=John, Lord Hervey, *Memoirs of the Reign of George II* (1884).
Hist. MSS. Comm.=Historical MSS. Commission Reports and Appendices.
Holdsworth=W. G. Holdsworth, *History of English Law* (1903).
Kenyon, L., Lord Kenyon, Notes of Cases in K. B. (1819).
Kent, Commentaries=James Kent, *Commentaries on American Law* (1858).
Kerley=D. M. Kerley, *Sketch of the Court of Chancery* (1890).
Leach, Modern=T. Leach, *Modern Reports* (1793 etc.).
Malmesbury Corr. (1870)=Series of Letters of the first Earl of Malmesbury.

- Marchmont Papers = Sir G. Rose, *Marchmont Papers* (1851).
 N. = Duke of Newcastle, except in references, when
 N. = the Newcastle MSS. in the British Museum, namely Add. 32686–32992,
 numbered by vols.; see calendar (1882–7), pp. 239–250.
 N.S. = new style (of the calendar).
 Nichols, Lit. Anec. = J. Nichols, *Literary Anecdotes of the 18th century* (1812
 etc.).
 Nichols, Lit. Illustrations = J. Nichols, *Illustrations of the Literary History of
 the 18th century* (1817 etc.).
 O.S. = old style (of the calendar).
 P.O. = Probate Office.
 Parkes = Joseph Parkes, *History of the Court of Chancery* (1828).
 Parl. Hist. = W. Cobbett, *Parliamentary History of England* (1806 etc.).
 Peere Williams = W. Peere Williams, *Reports* (1826).
 Phillimore = R. Phillimore, *Memoirs of Lord Lyttelton* (1825).
 Pol. Corr. F.'s = *Politische Correspondenz Friedrichs des Grossen* (1879 etc.).
 Price = George Price, *Reports* (1816 etc.).
 R.O. = Record Office.
 Ram = James Ram, *Science of Legal Judgment* (1871).
 Raxis de Flassan = Raxis de Flassan, *Histoire Générale* (1811).
 Ridgeway = W. Ridgeway, *Reports of Cases in the King's Bench and Chancery*
 (1794).
 Rockingham Mem. = G. T. Keppel, Earl of Albemarle, *Memoirs of the Mar-
 quess of Rockingham* (1852).
 Ruville = A. v. Ruville, *Life of Pitt* (Eng. Trans. 1907).
 S.P. = State Papers.
 Salkeld = W. Salkeld, *Reports* (1731 etc.).
 Schaefer = A. D. Schaefer, *Geschichte des Siebenjährigen Kriegs* (1867–74).
 Snell = E. H. T. Snell, *Principles of Equity*.
 Spence = George Spence, *Equitable Jurisdiction* (1846–9).
 Stanhope, Hist. of England = *History of England* by Lord Mahon (1839).
 Stephen = J. F. Stephen, *History of the Criminal Law* (1883).
 Story = J. Story, *Commentaries on Equity* (1892).
 Stowe = Stowe MSS. in the British Museum.
 Strange = Sir John Strange, *Reports* (1755).
 Swanston = C. D. Swanston, *Reports* (1821–7).
 Thackeray = F. Thackeray, *History of the Earl of Chatham* (1827).
 Turner and Russell = G. Turner and J. Russell, *Reports* (1832).
 Vernon = T. Vernon, *Cases in Chancery* (1828).
 Vesey = Francis Vesey, *Cases in Chancery*.
 Waddington = R. Waddington, *La Guerre de Sept Ans* (1899).
 Walpole's Letters = *Letters of Horace Walpole* (Toynbee, 1903).
 Walpole's George II = Horace Walpole, *Memoirs of the Reign of King George
 II* (1847).
 Walpole's George III = Horace Walpole, *Memoirs of the Reign of King George
 III* (1894).
 Walpoliana = Walpoliana by Philip Yorke, second Earl of Hardwicke (1783).
 West = M. J. West, *Reports of Cases in Chancery* (1827).
 White and Tudor = White and Tudor (Snow), *Leading Cases in Equity* (1897).
 N.B. The MS. notes, mostly of the second Earl of Hardwicke, are marked
 with asterisks, etc., those of the present author with numbers.

LIST OF ERRATA

- P. 1, l. 1, *for* is included *read* are included.
- P. 71, l. 3, *for* St Cas *read* St Cast.
- P. 84, par. 2, l. 17, *for* Fazerkerly *read* Fazakerley.
- P. 157 note 3, *for* Fazarkerley *read* Fazakerley.
- P. 190 note 3, *for* pp. 320-1 *read* pp. 220-1.
- P. 197 note 3, *for* Parl. Deb. *read* Parl. Hist.
- P. 229 note 1, *for* third Duke of Grafton *read* second Duke of Grafton.
- P. 253 note 3, *for* Edgecumbe *read* Edgcumbe.
- P. 567, 5 ll. from bottom, *for* ancestor *read* ancestors.
- P. 593 note 2, *for* p. 172 *read* Vol. II, p. 173.

CHAPTER I

INTRODUCTION. THE CLASSICAL AGE

THE eighteenth century, the period within which is included the life and career of the subject of this biography, was essentially the age of classical ideals and inspirations, with all that that great word signifies, simplicity, proportion, restraint, dignity.

We find it so in every phase and part of the national life at this time. The corner-stone of empire was then laid, without gorgeous ceremonies and without any noisy or oratorical display. Our forefathers digged deep the foundations with a firm and steady belief in the future greatness of England and her destiny in the world. The vast fabric grew up under their hands, and later generations have only occupied, or finished off and embellished, what was by them constructed. The striking developements and expansion of the empire in more recent times have only been the natural result and fulfilment of the great sacrifices made, and the splendid triumphs gained, by our ancestors. The first place in the world was won then at the cost of an immense outpouring of life and treasure. The colonies were established, the supremacy in trade was founded, the dominion over the ocean was grasped and maintained. All this was accomplished without ostentation, self-consciousness or self-glorification. To borrow the jargon of the present day, our forefathers did not talk imperially or think imperially, but contented themselves with acting as citizens of a nation destined to rule the world. They were not fully aware perhaps of the greatness of their achievements. At least, we find little of the boastful oratory, which in later times has become a prominent feature in English public life, and which has often proved a substitute for, and not a sign of, real strength and resolute action.

In domestic politics it was the same. A religion, which had become in its developements and connections injurious to the natural growth and progress of the empire, entailing as it did a mediaeval, despotic and incapable government at home, and abroad the sacrifice and surrender of the national interests to foreign claims and presumption, had been expelled from the throne and from the national councils and had been obliged to confine itself to the more fitting exercise of its strictly spiritual functions. Besides the extermination of this dangerous *imperium in imperio*, the Revolution, followed by the Act of Settlement, had composed the differences between the various political factions and compromised the claims of the crown and the people. Order, symmetry and dignity, balance in all its parts, which had been violated and destroyed by the Stuarts, were again restored to the state. Security and freedom were maintained at the price of some severity, but never at the cost of justice; and consequently the waves of Revolution in after years beat upon our shores without breaking in upon the national tranquillity or disturbing the national developement.

In the literature of the 18th century we find the same reserve, dignity and repose that are noticeable in the national character. In spite of some hostile criticism, the result of listening too much to the strained notes and self-conscious outpourings of modern times, there are no greater triumphs in letters than Swift's brilliant and virile prose, Addison's polished elegance, Johnson's gravity and dignity, Burke's eloquence, Gibbon's majestic paragraphs or Gray's inspired elegy. Each was a master of his art and striking and original in his own way, and each possessed the same classical qualities characteristic of the spirit of the age.

The speeches of public men, judging even by the mutilated fragments which have come down to us, were distinguished by a restrained but impassioned eloquence and by a nobility of style which recalled, and even surpassed, the orations of the Greeks and Romans; and it is a sign of the total unconsciousness by our forefathers of their own greatness, already noted, that while the declamations of Demosthenes and Cicero are extant as complete as when they were delivered, those of Chatham and of Murray only remain in fragments gathered up by a chance hearer.

It was an age of great Bishops and Divines, men of eloquence, of learning and of impressive character. The religion of the time, indeed, has often been depreciated; the general coldness of spirit has been remarked, the want of enthusiasm, the secularity of the

clergy and their neglect of professional duties. But there is a simple and restrained piety which may escape the eye of the hasty and superficial observer, absorbed in the statistics of attendances, of confirmations, and of sums subscribed for church purposes. The religion of the 18th century was of this kind. It was not a separate profession but a part of the ordinary existence of the individual, and therefore apt to pass unnoticed by the historian. It was limited perhaps on its intellectual, and reserved on its emotional side, and devoid of exterior ornament, but faithful in the performance of the simpler religious duties, and genuine, ardent and powerful as a rule of conduct.

We find the same classical qualities in the realm of art, in the dignified and striking portraits of the period, in the simple but finely moulded silver work, in the unpretending, useful but beautifully shaped furniture, and in the architecture, especially of the domestic kind, which now, combining practical utility, simplicity, dignity and restraint with originality, interpreted the classical spirit of the times and the national character amidst the national scenery.

In music the spirit of the times is perhaps still more apparent. The divine but restrained melodies of Handel, his broad and simple harmonies, the vigour and clearness and smoothness of the developement of his subjects, his grand massing of effects and the certainty of his cadences give voice to the classical inspiration in its fullest and greatest perfection.

In whatever direction we may turn our observation we find the same tone and feeling existing through all the various spheres of national life. Its manifestation is different and varies in form according as it appears in politics, in art, in letters or in religion, but everywhere it is the same spirit. Thus in a piece of Georgian silver work which fully satisfies the artistic desire by its simplicity and purity of outline, without the help of elaborate ornament, we may see the type of the religion or of the literature of the period. We can find enshrined and embodied for succeeding ages in the architecture of the country houses the solid qualities, the absence of ostentation, the simplicity and dignity of the domestic life of our forefathers, while the Handelian melodies and massive choruses seem to give voice, not only to the depth of English religious feeling of that day, but also in some way to the strength of the national character in all its aspects.

The great Judge and Statesman whose life and character are

now to be described, was preeminently himself an embodiment of this classical spirit so characteristic of his century. This is to be seen equally in his political and legal career, and also in his private life. In all these spheres we find that "Certainty" and "Repose" which, according to his own words, constituted the standard of perfection in Law, carried as ideals also into affairs of state, manifested in his family life, bound up with his personal character and even reflected in his outward appearance. It is therefore a great classical figure in English history, combining and embodying the best and most characteristic qualities of the time, which it is our task to describe here.

CHAPTER II

FAMILY AND ORIGIN

THE family history of a great man, even long before he himself appears, must always form an important part of his biography. The family is the basis and beginning of everything that has to do with man. It is not only the foundation stone of the social organisation but it is also the cradle of the individual life. The greatness and permanence of the influence which have parents and early surroundings in moulding the character and directing the developement of the child is too well known to need remark. The influence of remoter ancestors is much less apparent and direct but, as the progress of scientific observation tends to show, no less certain. It would be difficult again to overrate the moral influence, as apart from the inheritance of physical and intellectual qualities, of ancestry. The absence in the family of any standard of domestic or public duty, intellectual effort or of greatness in any of the spheres of life, handed down from father to son through the generations, has inevitably evil results; in the upper classes tending to stagnation and frivolity and in the lower to idleness and even to crime; while the existence and maintenance of great family traditions create a different atmosphere and brace posterity to pursue more vigorous careers and attain higher achievements.

In the case of Lord Hardwicke the materials for such a study, at least as far as his more remote ancestors are concerned, are at present very scanty. There appear to have been three prominent families of Yorke in England, those of Yorkshire and of Wiltshire, and the family to which Lord Chancellor Hardwicke belonged. To these was at one time added the German family of Yorck, counts von Wartenburg, descendants of the famous Prussian general Yorck, who played so great a part in the liberation of Prussia from the Napoleonic yoke. All these four families of Yorke give, or gave, similar arms (for the Wiltshire family is extinct) with

differences. Thus the arms of the Yorkshire family are argent, a saltire azure, with crest, a monkey's head. The Wiltshire family gave argent on a saltire azure an escalloped or¹; the family of Lord Chancellor Hardwicke argent on a saltire azure, a bezant, with a lion's head with bezant for crest; while the German Yorcks display the same arms as the Yorkes of Yorkshire, but with the crest and motto, *nec cupias nec metuas*, of the Lord Chancellor².

It sometimes happened that branches of the same family settled in different parts of the country, introduced slight variations into the common armorial bearings³; and it might not unnaturally be supposed from the similarity of name and arms in this case that all these families were members of one common stock, separated by the various vicissitudes of life but still springing originally from some common ancestor. Such an inference, however, would be far from a legitimate one. The name, though not a common one, is nevertheless not so rare as to give more than a *prima facie* supposition of relationship. In Lord Hardwicke's own time there were at least two individuals among his own acquaintances, who bore the same name but who could claim no kinship with him. These were Alderman Yorke, of Cambridge, and Sir William Yorke, Chief Justice of Ireland, for a time Irish Chancellor of the Exchequer and a frequent correspondent on Irish affairs.

A similarity of arms forms a basis no more secure on which to found a presumption of kinship. It has been the practice of the Heralds for some time past to grant arms already held by a family to persons of the same name but who, however, can show no relationship, merely distinguishing the new coat by some insignificant or inconspicuous difference.

Lord Hardwicke himself appears at first to have used the same arms as the Yorkshire family. These may be seen at the present day on the tombstone of his father, in old St James's Church, Dover, placed there by his order in 1727.

Sir Samuel Egerton Brydges, a relation of the Yorke family through the Gibbons⁴, and a good authority on heraldic matters,

¹ See Sir Thos. Phillipps's pedigree in his Wilts. Collections, Brit. Mus. and arms of John Yorke and Thos. Yorke sheriffs of Wilts. *temp.* Henry VII and Henry VIII, Fuller's *Worthies*, ii. 458, 459, and of the Yorkes of Hannington, com. Wilts. Visitation of 1623, Harl. 1443, f. 106.

² See the monument to Gen. Count Yorck von Wartenburg in the Unter den Linden, Berlin.

³ See below in the case of the Gibbon family, p. 31.

⁴ See p. 34.

writing in the *Gentleman's Magazine* in 1789¹, remarks: "It is observable that the bezant, as a charge upon the saltire, was not used on the hatchment, nor on the tombstone of 1727, nor in the arms painted on the north side of the Middle Temple Hall, when placed there for Sir Philip Yorke (then Solicitor-General) as autumn reader in 1721²." Moreover, there is no bezant in his arms, as Attorney-General, in the chapel of Lincoln's Inn.

These arms may have been assumed, as was sometimes the case, without any authority. On the other hand they may have been handed down from father to son; for many ancient arms were, and are, borne and their use justified which have never been registered in the Heralds' College. On the occasion, however, of Sir Philip's attaining the peerage, when the question of arms and supporters was discussed officially, he was advised, as we learn from a correspondence with George Anstis, the Garter King of Arms, to petition for the augmentation of the bezant which appears in the centre of the new coat of arms now granted to him, while at the same time the crest of a monkey's head, hitherto borne by him, was exchanged for a lion's³. These arms were always used by him subsequently, and appear in the painted glass in the window of the south recess of the Middle Temple Hall, placed there after his attainment of the peerage.

To what extent the similarity of name and arms may prove deceptive finds a striking illustration in the case of the Prussian Yorck family. The famous general himself often alluded to his supposed English origin, and it was believed apparently that a kinship existed both with Lord Hardwicke's and the Yorkshire family. On this supposition he was assisted by Sir Joseph Yorke, ambassador at the Hague and a younger son of the Chancellor, in 1780 when, as a young man, he had incurred the disapproval of the Prussian authorities and had been cashiered from his regiment. Later in 1814, on returning from a visit to England, he forwarded an account of his family history to the Lord Hardwicke of that day. It was generally supposed that the relationship had been established and on the statue, erected to his honour in the Unter den Linden at Berlin, are reproduced the arms of the English Yorkes of Yorkshire together with the motto and crest of the

¹ Vol. lix. 584; and *Miscellanea Genealogica & Heraldica*, 2nd series, iii. 308, where these arms are reproduced.

² The bezant however has now been added here.

³ H. 237, ff. 217, 270; Add. 36,275 A.

Chancellor. It has now been shown, however, that there is no relationship between the families and that Count Yorck had a strictly German or rather Pomeranian descent¹.

No connection, moreover, at least so far as the present writer's knowledge extends, has ever been clearly established between the three English families of Yorke. In the pedigree compiled by Sir Thomas Phillipps², a descent of Bartholomew Yorke of Calne, the Chancellor's great-grandfather, was supposed from Bartholomew Yorke of Richmond, in Surrey, and of the latter from John Yorke of Twickenham, whose name survives in Yorke House of that place, and through him from John Yorke, *temp.* Richard II, of West Hagborn, in Berkshire.

But great difficulties present themselves in making out these connections. There is no record, further than the middle of the 16th century, of any descendants of this branch of the family, which appears to have ended in the person of Thomas Yorke of Hilthrope, Ramsbury and Twickenham, in 1542, who died without male descendants³. Between the years 1538 and 1540 large sales of land belonging to Thomas Yorke took place and this branch of the family disappears from the county⁴. In the MS. heralds' visitation of Wiltshire of 1565, in the British Museum, there is no Yorke mentioned except in one case where the arms of Yorke of Ramsbury are added in pencil⁵, but these arms appear to have no resemblance to those borne by Thomas Yorke, viz. argent on a saltire azure, an escallop or.

It is more likely that the descent of Bartholomew Yorke, the Chancellor's ancestor, was from a younger branch of the same Wiltshire family, sprung, according to Sir Thomas Phillipps's pedigree, from William Yorke, the younger, great-grandson, through a younger line, of John Yorke of West Hagborn, *temp.* Richard II, which was settled during the 15th and 16th centuries in Gloucestershire, appearing towards the end of the 16th century at Hannington, Elcombe, Basset Down and other places in Wiltshire, and which, in

¹ Müßling's *Passages from my Life*, tr. by Col. Philip Yorke, 295 n. by the editor; Droysen's *Leben von Graf York v. Wartenburg*, i. 5, iii. 498; *Yorck* by H. Berghaus.

² Collections for Wilts. in the Brit. Mus.

³ See his will, 1542, and that of John Yorke, probably his father, in 1512, at Somerset House, Cant. Prerog.; R.O. Inquisition 36 Henry VIII; Fuller's *Worthies*, ii. 458-9.

⁴ Harleian Charters Brit. Mus. 80 I, Nos. 82, 83, 84, 85; 78 E 30; R. O. Rentals and Surveys Twickenham, Port. $\frac{1}{2}$ and $\frac{1}{5}$; Gairdner's *Henry VIII*, vol. xiii. I. No. 1079, vol. xiv. p. 258, vol. xv. p. 380.

⁵ Harl. MSS. 888, 5184, 1057, f. 86 b, 1111, 1565, f. 127.

the heralds' visitation of 1623, gives the same arms as Thomas Yorke of the elder branch above mentioned¹. Tombstones and inscriptions of this family are, or were, to be seen in the churches of Devizes, Edington, Lydiard Tregoze and Hannington²; their names occur in the commission of the peace³, and several of their wills exist in the Sarum registry, now at Somerset House, where the testators are variously styled gentlemen, yeomen and husbandmen, and appear to have dwindled in property and importance.

It was from this family apparently that Lord Hardwicke believed himself to be descended. William Yorke (1576–1660)⁴ of Elcombe, and of Bassett Down, brother of Humphrey Yorke of Hannington, who married Anne, daughter of Simon Stampe, was a member of this family and bore the arms of the elder branch already described. His portrait, said to have been painted at the age of 71, in 1649, is in the vestibule at Wimpole. During his lifetime the county was visited by the ravages of civil war and his son Charles Yorke has left the following note concerning a painted window erected by him of his family arms which he enumerates, adding "These arms and many more which I cannot remember were broke by Sir William Waller's⁵ men, when they lay before Devizes in 1643, when they stript me of all they could find. They are replaced upon a much worse glass and manner this present year 1663 by me Charles Yorke⁶." These arms were sent to Lord Hardwicke and, since they correspond, are doubtless those now placed in the windows at the west end of Wimpole Church behind the gallery, or else the originals from which these latter were reproduced⁷. On May 14, 1751, John Hippesley Coxe of Stone Easton whose grandmother was Susan, granddaughter of the above Charles Yorke, and whose father, John Coxe of the Lye,

¹ Fuller's *Worthies*, ii. 458–9; Hartl. MSS. 1054, f. 3; 1443, f. 106; 1165, f. 24; Nichols, *Herald and Genealogist*, ii. 293; Wilts. *Archaeological Mag.* ii. 374–5, 379; Aubrey and Jackson, *Wilts.* 181 and plate xvi.; Sir Thomas Phillipps's Extracts (1854), Brit. Mus.; *Visitation of Wilts.* ed. by G. W. Marshall, 26.

² Phillipps, *Monumental Inscriptions of Wilts.* 70 and 246, and Aubrey and Jackson, *Wilts.* as above.

³ Brewer, *Henry VIII*, i. No. 898.

⁴ Aubrey and Jackson, *Wilts.* 181, from the inscription on his tombstone in which the dates differ slightly from those on his portrait.

⁵ Parliamentary general who conducted the campaign in Wiltshire and the west in 1643 and commanded at battles of Lansdown (July 5) and Roundway Down (July 13). Died 1668.

⁶ Communicated by T. E. Yorke, Esqre, of Bewerley, Yorkshire.

⁷ According to W. Cole (see below) the glass was reproduced from the pedigree sent to Lord Hardwicke and at first placed in the bow window in the Library at Wimpole.

had bought Bassett Down in 1709 from the Yorke family, which became extinct on the death of Charles Yorke in 1726 without male heirs, wrote: "A considerable estate belonged to...the Yorkes in the county [of Wiltshire]; a small part remains with me now; the glass was taken from a chappel of a very old house...near the Devizes, Wiltshire, which was sold by Mr Yorke!" This letter was probably addressed to Thomas Prowse, M.P. for Somersetshire, of whom the Chancellor had made some enquiries upon this subject², and who, according to William Cole, had procured for him a "most curious old pedigree and finely illuminated with about 3 score arms of the York family....My Lord expressed a great desire to have it, in case it was found that they gave the same arms as he gave, which upon examination proving to correspond, the pedigree was accordingly procured by Mr Prowse for...my Lord Hardwicke³." It is perhaps worth noting also that the painted window of family arms, erected towards the end of the 18th century in Marchwiel Church, the place of burial of that branch of the Chancellor's family which was settled at Erthig, in North Wales, is inscribed, "Yorke ex Fam: Yorke of Hannington and Elcomb com: Wilts."

One Simon Yorke, who bore the same names as the Chancellor's grandfather—a combination sufficiently uncommon to arrest attention—styled *plebei filius*, i.e. son of a commoner or yeoman, matriculated at St John's College, Oxford, in 1590, aged 18⁴, and he is probably identical with the Simon Yorke, vicar of Sutton Benger, Wiltshire, in 1614 and who died there in 1637, leaving a wife, Alice, and a daughter Joana⁵. Another Simon Yorke, or possibly the same, was tenant of Thomas Baylye in Rowde and Bromham, Wiltshire, before April 1603⁶. The fact that these three places are all in the immediate neighbourhood of Calne, in North Wiltshire, together with the other evidence already brought forward, goes some way in corroborating the inscription on the tomb of Simon Yorke, the Chancellor's grandfather, in old St James's Church, Dover, which states that he was the eldest son of Bartholomew Yorke of Calne and that his ancestors belonged to a branch of the Yorke family, long settled in that part of England

¹ Communicated by T. E. Yorke, Esqre of Bewerley.

² H. 243, f. 208.

³ Add. MSS. 5823, f. 137.

⁴ Reg. of Univ. of Oxford, vol. 2 ii. 181, x.

⁵ See his will, Somerset House, Archdeaconry, Wilts., and Phillipps's *Institutiones Clericorum*.

⁶ Wilts. *Inquisitiones post mortem temp. Charles I*, pub. Wilts. Archaeol. and Nat. Hist. Soc. p. 362.

and then extinct, a statement which, since it dates from a period long after Simon Yorke's death and indeed after that of the Chancellor himself, might otherwise, as embodying a vague family tradition only, not have obtained full credence.

The hypothesis, however, which derives the Chancellor's family from the younger branch of the Yorkes of Wiltshire leaves unfortunately the Bartholomew Yorke of Richmond, on whom Sir Thomas Phillipps's pedigree mainly depended, without ancestors or posterity. We hear something of him in the 11th year of Elizabeth, when recognizances were taken of Bartholomew Yorke of Richmont co. Surrey, gentleman and others for the appearance at the next gaol delivery at Newgate of Anthony Martin, his brother-in-law, gentleman sewer of the Queen's Chamber, and of Thomas Edwards, his servant, in the sums of £160 and £80 respectively¹. He was married, according to Phillipps's pedigree, in 1556 and was buried in the chancel of Richmond Church. The will of his wife, Joan Yorke, was proved in 1609 but there are no bequests to any of the family of her husband, who had already predeceased her². Mention, however, is made of her sister Willet as well as of her brother Martyn, and since both these names occur in the will of John Yorke of St Brevells co. Gloucester, yeoman, who died in 1583³, we are probably safe in connecting, though somewhat loosely, Bartholomew Yorke of Richmond with the said John Yorke and with his brothers Walter and Philip Yorke. Another link, between Bartholomew Yorke of Richmond and the elder branch of the Wiltshire family, is perhaps suggested by the suit brought, 19 Elizabeth, by the same Anthony Martyn gent. against Thomas Goddard respecting lands in Aldbourne and elsewhere in North Wiltshire, when the defendant stated that the lands in question were sold at the beginning of the reign of Edward VI to his father by Thomas Yorke, the last survivor, as far as we know, of the elder branch of the family in Wiltshire⁴.

Another point of interest is revealed in the fact that the arms reproduced by Charles Yorke of Elcombe in 1663 and later sent to the Chancellor, besides containing some of the families with which the Yorkes of Wiltshire had intermarried, includes a great many of those allied with the family of Yorkshire. "I find there is a tradition," wrote John Hippesley Coxe, "(but I can find no better proof)

¹ *Middlesex County Records*, i. 65, Session Rolls.

² Somerset House, Cant. Prerog.

³ *ib.*

⁴ *Collectanea, Topog. and Geneal.* vi. 391.

that this family (*i.e.* of Elcombe) came from the North of England and the alliances in the pedigree seem to countenance it." On the marble gravestone of the said William Yorke of Elcombe, in the nave of the church of Lydiard Tregoze, he is definitely described as "ex equestri familia in agro Eboracensi oriundus," and elsewhere as of "a knightly Yorkshire family¹." Further, there exists in the pedigree of the Yorkshire family, a third Bartholomew Yorke, merchant, freeman (1526-7) and chamberlain (1533-4) of the city of York, and member of the guild of Corpus Christi (1525), son of Thomas Yorke, merchant, and grandson of the first Sir Richard Yorke, mayor of the staple in Calais who died in 1498. He married Catherine, daughter of John Thornton, alderman of York². He was probably the same Bartholomew Yorke who, with his wife Emma, is mentioned in the Yorkshire list of fines as a party to the transfer of property in Kingston upon Hull in 1537³.

The establishment of a connection between the Chancellor's family and those of Wiltshire and of Yorkshire would open up a fresh source of interest in his life and would be a striking instance of the rise and fall of a family and of its varying fortunes through all the different periods of English history. It is not improbable, moreover, that a thorough and systematic research, which, however, scarcely falls within the province and plan of the present writer, might make clear the kinship of the three Bartholomew Yorkes of Calne, of Richmond and of York.

Passing on to the Chancellor's immediate ancestors, Bartholomew Yorke, his great-grandfather, whose existence and abode at Calne are chronicled on his son, Simon Yorke's tomb at Dover, was buried at Calne on May 3, 1618, and Margaret Yorke, possibly his wife, on March 1, 1622⁴. Nothing else is recorded till we come to Simon Yorke, the Chancellor's grandfather, around whose name are grouped some local events of interest and whose career forms, as it were, a small stream in the great tide of national history.

¹ Aubrey and Jackson, *Wilts.* (1862), 181.

² *Freemen of York*, by F. Collins (Surtees Society), i. 248, 253; *Reg. of Corpus Christi Guild*, 206.

³ *Yorkshire Archaeological and Topographical Association, Record Series*, ii. 77.

⁴ Calne Parish Register.

CHAPTER III

SIMON YORKE OF DOVER

READING from the inscription on his tombstone already referred to, we learn that "Simon Yorke Es^te was the eldest son of Bartholomew Yorke of Calne in Wilts. He was born in March 1605 and was a branch of that name long settled in North Wiltshire, now extinct. They suffered much on account of their loyalty during the Great Rebellion. At that period Mr Simon Yorke left his Native Country and resided at Dover many years. The Lord Chancellor Hardwicke was his grandson and heir-at-law."

We hear of him however in Dover as early as March 24, 1641, at which date he was already a resident and took out his marriage license which runs as follows :

"Simon Yorke of S. James' in Dover, wine-cooper, ba[chelor], about 33 and Alice Court of S. Andrews, Cant[erbury], V[irgin], about 25 whose parents are dead, at Wingham or Eythorne. Robert Turner of Cant[erbury] woollen draper, bonds[man]. March 24, 1641."¹

Some members of the family of Yorke in Wiltshire are recorded as delinquents under the Commonwealth². But Simon Yorke must have left Wiltshire some little time before the actual outbreak of the Civil War in 1642. Further, as becomes clear from subsequent events, he was an opponent, and not a supporter, of the arbitrary government of Charles, and in settling at Dover he found himself in a congenial atmosphere.

As one of the Cinque Ports, Dover felt severely the frequent impositions of ship-money. It contained a community of rising merchants whose trade and fortunes were particularly liable to injury from unsettled government and excessive taxation, and who

¹ *Canterbury Marriage Licenses*, ed. J. M. Cowper, 2nd series, p. 1108.

² *Calendars of State Papers, Committee for Advance of Money*, 1388, 1049; also 1018.

would be influenced little by those sentiments of personal loyalty, which kept many of the country gentlemen faithful to the royal cause. In common with the rest of the country, they were alarmed by the supposed leanings of the government towards Roman Catholicism. But the people of Dover alone had before their eyes a practical object lesson of the misery and ruin occasioned by ecclesiastical bigotry joined to monarchical despotism. The same scenes were now repeated which had been witnessed in the days of Elizabeth. A stream of refugees from France, consisting often of the most worthy, intelligent, and industrious of the inhabitants of that country, escaping from torture, imprisonment and death, poured in upon the shores of Dover¹. Deprived generally of most of their possessions, they received a warm welcome from the inhabitants, and sums were collected to provide for their immediate wants. Several congregations established themselves at Dover and the refugees or their descendants were soon to be counted among the most prosperous, useful and law-abiding families of Dover, Canterbury and the surrounding districts; while the advent of the persecuted but at the same time of the unflinching and unconquered Protestants must have greatly strengthened those Englishmen who in their own country appeared to be just entering into a similar struggle for religious liberty.

It is no wonder, therefore, that Dover was one of the first towns in England to declare against the King, while the Castle, which was royalist, was surprised and captured by the Parliament at the very beginning of the war in 1642.

The first mention of Simon Yorke in the Records of the Corporation of Dover is his assessment in July 1641 as a "foreigner," or resident who was not a freeman of the town, at the sum of 2 shillings, an amount which appears to be about the average. He rose very soon to municipal influence. From 1644 to 1650 he was "overseer" of St James's parish at Dover and in 1649² one of the sequestrators of the tithes who superseded those implicated in the "insurrection," that is the royalist attempt of the same year to seize the Castle. He obtained the freedom of the town on November 17, 1646³. He was chosen councillor, September 6,

¹ See the typical narrative of Isaac Minet who escaped to Dover in 1686. *Huguenot Family of Minet* by W. Minet.

² Add. 29,624, ff. 184, 241.

³ Egerton MSS. 2096, f. 151. Slightly different dates are given in the Book of Freemen at Dover and in the Minutes Book. See also Egerton MSS. 2120, ff. 18, 20, 24. The meaning of the offer of the £5 which was refused, was to show that

1648¹. He served on various committees and exercised the office of overseer of the poor². In 1642, 1643, 1648, 1649 he appears as "constable" of Halvenden and Balls Ward³, in which capacity the arduous but perhaps not unpleasant duty devolved upon him of obliging all within his jurisdiction to preserve proper decorum and to attend church. Among the Depositions before the Mayor of Dover in 1643⁴, we find that "Symon Yorke, Constable of Halvenden and Balls Ward in the Towne, sworn, complayned that James Hamon of the Towne, carpenter, on Wednesday last being Fast day, in the forenoone being in the m[ar]ket place and this ex[am]ji[n]ant moving him to repaire to church, he the said James called him Jack Straw, and asked him what he had to doe to examine him and said he would stay there in despite of you and what authoritie you had to be there to w[hi]ch this exa[m]ji[n]ant said he was commanded by Mr Maior there to attend. Giles Smyth of the said Towne and port, sadler, now also deposed, saith that he this exa[m]ji[n]ant being a watchman on the said fast day, he heard the said Symon Yorke speak to the said James Hamon and others walking under the Courthall to repaire to their Houses or to goe to Church, he the said James Hamon said, how now Jack Straw, what have you to do to examine me, whereupon the said Symon Yorke said he was there to ward by Mr Maior's command, and then he the said Hamon said, it was more his own upseekinge than Mr Maior's comand, and used many other crosse words to him."

We must hope that such obduracy and disobedience were not common and that the people of Dover in the Halvenden and Balls Ward showed themselves in general amenable to Simon Yorke's godly admonitions. In addition to these responsible public duties he carried on the business of a wine-merchant, being styled invariably in the records wine-cooper or merchant. In 1648 he had the great privilege of supplying wine, as a present from the Dover Corporation, to the celebrated Colonel Algernon Sidney, who had been appointed lieutenant of Dover Castle by the Parliament that "the candidate was worthy to hold conversation with the mayor." Lyon's *Hist. of Dover.*

¹ Minutes Book at Dover.

² Records at Dover.

³ "An officer of a parish or township appointed to act as conservator of the peace and to perform a number of public administrative duties in his district." *The Oxford Dictionary.*

⁴ Dover Records in Brit. Mus. Add. 29,624, f. 157; Depositions before the Mayor at Dover, 172. The entry bears the signature of Simon Yorke.

year¹, and it is satisfactory to find, by a later entry of February 20, 1650, that "the hoggeshead of canary...is well approved of."

Simon Yorke attended assemblies of the town council and served on various committees during the years 1649 and 1650²; that is, speaking generally, until the establishment of the Commonwealth, but he was absent subsequently till June 21, 1655. His reappearance together with Edward Chambers, another councillor, gave rise to a violent scene in the council room a few days afterwards on June 26, when an attempt was made to prevent their return. "A vote whether Edward Chambers and Symon York now present—formerly of the Common Council for 5 years absent and now returning—shall withdraw the house or not. The vote was even thirteeene. Mr Maior [Valentine Tatnall] had his negative voyce and gave it that the said Edward Chambers and Symon Yorke shall not withdraw." Upon this several of the councillors "departed the house." Others were sent to "desire their return to the house whereby the house may proceed in the business." But their mission of peace did not succeed. "Mr White and Mr Smythe refused to return and for Mr Day and Mr Cullen they spoke not unto them."

In spite, however, of this apparent victory and the rout of their opponents, Simon Yorke and his companion retired and made no further attempt to take part in the proceedings of the council during the remainder of the Commonwealth³. Valentine Tatnall, the mayor who had supported them, was removed from office by Cromwell, and Thomas White, presumably the individual who had opposed them, was appointed in his stead.

At the Restoration Simon Yorke returned in triumph, when these illegal proceedings were at once reversed. He was probably one of those gathered on the shore on the historic occasion when Charles II landed at Dover on May 20, 1660, and when a Bible was presented to the King by the town. He was restored to his seat in the council on June 25, 1660, and in December 1661 was appointed chamberlain and auditor of the municipal accounts. His name occurs frequently in assemblies of this time⁴.

¹ Dec. 16; Egerton MSS. 2096, f. 159; Minutes Book at Dover.

² Egerton MSS. 2096, ff. 150-164; Records at Dover.

³ He serves on a committee of assessment for payment of the army Nov. 20, 1655, and is chosen as guardian of one Henry Whetstone May 7, 1658. The last entry has his signature. Records at Dover; Add. MSS. 29,624, f. 366.

⁴ Egerton MSS. 2096, ff. 179, 204, 210; 2120, f. 68; Add. MSS. 29,623, ff. 161, 177; Records at Dover.

We may infer from these incidents that Simon Yorke, like Thomas Papillon, the representative of the town in Parliament¹, was one of those who at first had been strong supporters of the cause of the Parliament, desiring the security of the Protestant religion and of the rights and liberties of the subject, but who had been altogether alienated from the administration of Cromwell by the execution of the King, by the establishment of Independency and by the creation of a military despotism instead of a parliamentary government.

His long official connection with St James's Church, the baptism there of all his children, the matriculation of his eldest son at a college at Cambridge conspicuous for its loyalty to the Crown, and the taking of orders by this son in the Church of England seem to show that, while an opponent of the Laudian system lately introduced into it, he had no desire to withdraw from its communion and had no sympathy with the separatists and independents.

At Dover there was a large number of persons who held and were actuated by these moderate views. They were men of grit, of strong and earnest character, superior to other factions of the time in their sincerity, wider outlook and patriotism, and to them England owes much. It was chiefly by their means that the royal absolutism was resisted and overthrown. The Restoration was their work as was the Revolution which secured finally in England the establishment of constitutional government.

Meanwhile, the great services of the moderate party in bringing about the Restoration met with little reward. Soon after Charles II's accession a series of measures of a very oppressive nature, known by the name of their author as the Clarendon Code, was passed through Parliament. According to the Corporation Act, one of the most important, all magistrates and persons bearing office in corporations were compelled to swear an oath declaring it unlawful under any circumstances to take up arms against the King or against his administration. They were also obliged to repudiate the Solemn League and Covenant, and to take the sacrament according to the ceremonies of the Church of England within a year of their election. This, in the case of such persons as Simon Yorke, was obviously nothing less than to repudiate and stultify the whole of their conduct during the late troubles. Many conceived themselves justified, without changing their opinions, in taking a formal and meaningless oath. But Simon Yorke belonged

¹ See further below, p. 28.

to the more rigid, more conscientious or more combative party. Accordingly, in August 1662, the Commissioners sitting at Dover to administer the oath "thought fitt and requisite for the publique peace and safety of this Kingdome to displace and remove" Simon Yorke and 29 other councilmen or jurats "from all and every their said places, offices and imployments...for divers good causes and reasons." He was hereby excluded from his office of chamberlain as well as from his seat in the council. In addition, on September 3, 1662, Simon Yorke and a large number of others, including Valentine Tatnall, the former mayor, who had been expelled by the Protector, were deprived of the freedom of the town, "soe far as to disable them and each of them from being present at any publique assemblie of the said Corporation, or from giving any vote in any elections or other thinge concerning the said Corporation¹."

While these arbitrary measures deprived these persons of their civil rights, the Conventicle Act, passed a little later, in 1664, struck at their religious freedom. By this law it was forbidden to be present at any religious assemblies which should be attended by five persons over and above the household, other than those of the Church of England, the penalty being imprisonment and transportation for the third offence and conviction being obtained before a single magistrate. The town council, however, showed no desire to put the new act into force. A complaisant petition to the King therefore was signed by 120 inhabitants of the town expressing their grief at the license allowed to the disaffected, while the attitude of the Dover authorities is the subject of continual complaint in the letters of John Carlile², clerk of the passage at Dover and a member of the Corporation, who corresponded regularly with Williamson, secretary to Lord Arlington, a member of the Cabal ministry, who was especially zealous in promoting the worst schemes of the reign.

There existed, however, a rival power to the town council at Dover in the Castle which represented the interest of the court and frowned upon the town from its high cliff. At this moment the Lord Warden of the Cinque Ports and Governor of Dover Castle was no less a person than the ill-omened James himself, and through his influence drastic measures were now taken for suppressing the conventicles. At some time previous to January 13,

¹ Sessions Book, Records at Dover.

² *Cal. of State Papers, Dom.*; Lyon's *Hist. of Dover*, i. 215.

1671, Simon Yorke, with five others, was summoned to attend before the Privy Council in London to answer for the offence of attending conventicles and was then rebuked and threatened. James writes as follows to his deputy, Colonel Strode, at Dover Castle¹:

Col. STRODE,

His majesty having been informed in Council of divers Conventicles and unlawful meetings frequently kept and held in the town of Dover, and the remissness of the Magistrates in suppressing the same, and punishing the offenders according to the Act of Parliament, to the contempt of his Majesty's laws and encouragement to others to offend in the like case, did think fit (for redress thereof) in Council, to order that Richard Matson², late Mayor of Dover, Edward Dell, Samuel Taverner³, Nathaniel Boney, Symon Yorke, and Anthony Street, should appear at the Council Board to answer the Premises, who accordingly appearing and being severally heard and reproved for their misdemeanours, his Majesty was pleased by his order, sitting in Council, dated 13th instant, to authorise me to give speedy and effectual orders to shut up (in the said town of Dover) all such houses as lately have, are or shall be made use of, for the meeting of persons, disaffected to the government by law established, under pretence of Religious worship, so no assembly be from henceforth kept therein, as also to give directions for the pulling down all Pulpits, Couches, and other seats as shall be found placed in such houses for the conveniency of Conventicles, and particularly the Pulpits and seats in the House of the above-named Samuel Taverner, or any other....

I do therefore desire that you will immediately give strict and effectual orders to the Magistrates of Dover to cause all the particulars of his Majesty's order in Council of the 13th of this instant January to be punctually observed, performed and duly executed according to the terms of the said order. I am your loving Friend

JAMES

Whitehall 21 Janr. 1670[1]

To Col. John Strode my Lieut of Dover Castle.

¹ Records at Dover; Add. 29,623, f. 204.

² A member of this family was a tenant of the Yorkes. See a letter of Philip Yorke (afterwards Lord Hardwicke) to James Matson in 1707, II. 236, f. 34.

³ For Samuel Taverner, grocer at Dover, made captain of Dover Castle by Cromwell, and who was a notable personage and the leader at Dover of the more extreme faction of the dissenters and whose name suggests a Huguenot origin, see Lyon's *Hist. of Dover*, i. 215.

Simon Yorke, we can scarcely doubt, returned from London a stronger antagonist of the government and more determined than ever to attend the conventicles at Dover. Dissent was by no means suppressed by the measures of force now adopted by the government, but seems, on the contrary, to have increased. John Carlile continues to lament the condition of the town. On June 13, 1670, there was an assemblage of 200 nonconformists, and again on June 21, the latter being dispersed by soldiers. On July 27, more meetings were discovered. On September 10, great disorders took place during the election of mayor, in which the court was interfering. On October 31, the fanatics were daily increasing. On January 11, 1671, he declares that £5 were collected at a conventicle and only 40 shillings at St Mary's Church. The new mayor winked at the conventicles. A speedy remedy from his Majesty was necessary¹. On February 2, the mayor and jurats caused the pulpit and benches of the Anabaptists to be broken down and locked the doors with padlocks, but on Sunday morning the doors were found broken open and the Anabaptists at their old trade again. "At the Presbyterian meeting-house we could not get in; those that hired it were so obstinate that they would not open the door." On February 24, he describes Dover as a sad, dead, divided town with little or no commerce, and it remained so till the Revolution¹.

The year 1670, apart from these untoward deeds of folly and violence committed by the administration at Dover and elsewhere, will always remain one of the most shameful dates in the annals of England. It was the year of the memorable treaty of Dover, partly public and partly secret, contrived by King Charles II and his sister the Duchesse d'Orléans, who met for the purpose at Dover, whereby the King of France was allowed a free hand on the Continent and especially in his expedition against the Dutch, while Charles on his side received in return a pension to render him independent of Parliament and of the nation, and undertook to declare himself a Roman Catholic. Only once before had England sunk so low, when the ancestor of Charles, at Dover, many centuries before, had fallen on his knees before the emissary of the pope and pawned his kingdom in the same way as his descendant.

Excluded thus from municipal office, what we may call Simon Yorke's public career now came to an end, and we hear of him

¹ *Cal. of State Papers, Dom.*; see also Lyon's *Hist. of Dover*.

no more in the records of Dover except as auditor of the accounts of St James's Church in 1672, 1673, 1676 and 1680¹. As a single drop of water, while forming one minute portion of the shower, is sometimes seen besides to image in itself, as in a mirror, the whole of the surrounding scene, so the life of this prosperous and sturdy citizen of Dover, besides constituting in itself a small portion of the great tide of events which then swept over the country, reflects also vividly and clearly, though in miniature, the whole of the great historical drama then being played out in England.

In 1641, Simon Yorke, as already mentioned, had married Alice Court of Canterbury. The inscription on her tombstone in old St James's Church, Dover, runs :

"Here lieth the body of Alice, the Wife of Symon Yorke by whom he had issue 5 sons and one daughter. She died the 4th of X^{br} Ann^o salut: 1663 aetat: 52." Then follows this Latin epitaph :

Ejus ossa tegit patria at mens visit Olympum,
Coelica pars durat, terrea massa perit.
Esse ἀταθή, animunque mori cum corpore legi
Has Stoicus partes, has Epicurus agit.
Huic mentem vero aeternam fortemq: dolores
Monstrant: Quis credet tot potuisse pati.
Namque invicta tulit furiosae termina carnis,
Non animum fregit poena sed ira DEI.
Charior illa Deo facta hinc, positoque dolore,
Regnat ubi jam lex Salica nulla vetat².

The verses were in all probability the composition of Alice Yorke's two sons, Henry and Philip—to the former as the University student and clerk in orders being no doubt the philosophical allusions, and to the lawyer the triumphant conclusion which affirms his mother's reign in heaven "where no Salic law forbids." In spite of the crudeness of the lines and the extraordinary incongruity and clash of sentiment, there is something touching in them and especially in the expression of belief in the future immortality of the soul as inferred from the present grief and pain suffered by the body.

Simon Yorke survived his first wife for many years, and in 1665 he married secondly Mary Bassett of Hythe, widow of

¹ Egerton MSS. 2113, f. 384; 2114, ff. 62, 134; and 2115, f. 219.

² The inscription is now somewhat obliterated. The version in the text is made from the stone itself assisted by the reading given by Sir S. Egerton Brydges (*Cent. Mag.* ix. 584).

Ferdinando Bassett, late jurat of that town¹. By her, who survived him, he had no issue. He left to his widow an annuity of £35, desiring his "children to be kinde and lovinge" to her. He died in 1683. The inscription on his tombstone, following that to his first wife in St James's, Dover, runs: "Here lies the body of the said Symon Yorke who dyed the 3rd Day of February anno 1682, aged 76 yeares 11 moneths. In spe beatae Resurrectionis."

Meanwhile, in spite of the troubled events of his municipal career, either by inheritance, or through the prosperity of his wine trade or other ventures, he had become possessed of considerable property in Dover and the neighbourhood. According to his will in the Probate Office at Canterbury this included Chilton, a large farm or property of arable, pasture and woodland, consisting in Hasted's time of 480 acres², situated in the parishes of Alkham and River near Dover, and containing a house which he appears to have used as a country residence. Near this property was another in South Alkham, consisting of lands, messuage and tenement. He also owned six acres of arable land in the neighbouring parish of Ewell. He was the owner of the "Antwerpe," situated in the Market Square at Dover, at that time the principal, if not the only inn of the town, but recently demolished. No doubt it was managed strictly on the "tied-house" system and was a source of considerable profit to its proprietor. He had two houses in the town, both in St James's Street, one described as being in his own occupation and containing stable, outhouses, garden and appurtenances, and the other as his "little tenement." He also owned one sixteenth share of the ship called the "Olive Branch." His money, household goods and plate, of which one piece, a silver wine-taster, inscribed with his name and dated 1635, is in possession of his descendant Philip Yorke of Erthig, were divided according to the terms of his will among his children, of whom we must now speak.

¹ *Canterbury Marriage Licenses*, ed. by J. M. Cowper, 3rd series, p. 525.

² Hasted's *Kent*, iii. 359, and at that time owned by Philip Yorke of Erthig, great-grandson of Simon.

CHAPTER IV

FAMILY OF SIMON YORKE AND THE CHANCELLOR'S PARENTS

THE children in order of birth of Simon Yorke were Henry, Elizabeth, Joseph, Benjamin, Philip and Simon. Of Elizabeth, Joseph and Benjamin there is little to record. The former, who was baptized on October 13, 1644¹, inherited under her father's will his land in South Alkham, the "Antwerpe" Inn at Dover, his "little tenement" in St James's Street, and a fourth part of his household goods and plate. She was unmarried at her father's death in 1683 and in the absence of any record to the contrary presumably remained so. In all probability she was the Elizabeth York who was buried at St James's on December 22, 1732², and to whom allusion is occasionally made in the family correspondence³.

Joseph Yorke was baptized on January 11, 1647¹. He is not mentioned in his father's will but he had probably been already established in business and provided for, or possibly was at that date already dead. He followed the trade of his father, being styled "wine-cooper" in the notice of his admission to the freedom of Dover³, which he claimed as the son of a freeman on October 25, 1670. In the margin opposite the entry has been added at a later date "gone," and we hear of him no more. But it is certain that none of the elder sons of Simon Yorke left heirs since Lord Chancellor Hardwicke, son of the younger son Philip, himself was afterwards his grandfather's heir-at-law⁴.

Benjamin Yorke was baptized on January 3, 1649¹, and predeceased his father, being buried with the rest of the family at St James's, Dover, on January 20, 1673¹. He left no will, but administration, in which he is described as of the parish of All Hallows, Barking, was taken out by his father⁵ on February 8, 1674.

¹ Register of St James's, Dover.

² p. 44.

³ Records at Dover.

⁴ Above, p. 13.

⁵ Probate at Somerset House.

Henry Yorke, the eldest son, fills a more definite place in the family history. He was baptized on March 7, 1643¹. He matriculated at Queens' College, Cambridge, and took the degree of B.A. there in 1662. Subsequently, on May 12, 1664, for what reason is not apparent, but perhaps with the object of obtaining clerical preferment, he was incorporated in Magdalen Hall, Oxford, and took the Oxford degree of M.A. on November 2 of the same year². On April 22, 1681, he obtained the living of Ripple³, near Dover, of which he remained rector till his death in 1712. He is mentioned by Henry Ullock, rural dean, in a letter to the archbishop in 1683, as being then lately married and as one of those incumbents who "reside on their cures and officiate in their own persons...."⁴ His wife Elizabeth, whose maiden name is not recorded, died in 1703 and left in her will a patina to the church of Ripple, which was in 1835 transferred to Wimpole⁵. No children survived this union. Henry Yorke seems to have had some influence in the education of his nephew, the future Chancellor, who carried on a Latin correspondence with the rector of Ripple on the subject of his studies as well as with his father⁶. By Simon Yorke's will Henry Yorke had inherited the estate at Chilton and shortly before his death, by a deed dated 1711⁷, he assigned 180 acres in the parishes of Alkham and River near Chilton and 60 acres at Woolverton in Alkham and other lands to his brother Philip Yorke senior, and afterwards to the latter's son, Philip Yorke junior, and his heirs, on payment of £20 a year, "for the better advancement and preferment of his said nephew," the latter being now just of age and on the point of entering upon his profession at the bar. He died very soon after the completion of this deed, in November 1712⁸, leaving all his remaining property⁹ to the same brother and nephew, and his books and manuscripts to the latter solely.

Simon Yorke, the youngest of the family, was baptized on January 23, 1654¹⁰. He was early in life established as a grocer, *i.e.* a dealer in wholesale or member of the Grocers' Company, in the parish of St Peter's, Cornhill, London, and is so described in his marriage allegation¹¹. By his father's will he inherited his larger

¹ Register of St James's, Dover.

² *Graduati Cantabrigienses*, 536; *Graduates of Oxford*, 753.

³ Hasted's *Kent*, iv. 136.

⁴ *Archæologia Cantiana*, xxi. 181.

⁵ Ripple Parish Registers; H. L. Beardmore, *List of the Rectors of Ripple*.

⁶ H. 236, ff. 5-14, 147.

⁷ H. 880, f. 20.

⁸ His will dated 1709 in P.O. at Canterbury; also H. 236, f. 348.

⁹ Register of St James's, Dover.

¹⁰ Below, p. 25.

house in St James's Street, Dover, six acres of land in Ewell, his share in the ship, the "Olive Branch," a sum then owing to the testator of £170 and a portion of his household goods and plate¹.

Simon Yorke married in 1682 Anne Mellor, the entry of his marriage allegation being as follows:

1682, July 24. Symon Yorke, of St Peter's, Cornhill, Lond. Grocer, Bach^r, about 28 and Anne Miller [*sic*] of St Giles in the Fields, Midd. Spr ab^t 20, with consent of her father John Miller [*sic*], Tobacconist, at St George's, Southwark, Surrey².

John Mellor the younger (1665–1733), barrister-at-law, brother of Mrs Simon Yorke, about the year 1708, acquired the estate of Erthig, near Wrexham in North Wales, and the succession to a chancery mastership from Dr Eddisbury, a bankrupt. He held this office till 1720, during the palmy days of the old régime, when large opportunities were afforded of acquiring wealth, till the scandals and disclosures connected with Lord Macclesfield's impeachment drew the attention of Parliament to the evil system which prevailed, and under the direction of Sir Philip Yorke, then Attorney-General, the money of the suitors in chancery was taken out of the keeping of the masters and placed in the Bank of England. The chief sources of gain arose from the immense sums belonging to the suitors which for the time being were under the control of the masters. These were placed out at high rates, while the owners of the funds received merely the ordinary legal interest. How large these sums were may be gathered from the fact that Master Mellor on his retirement handed over to his successor £120,000, the property of suitors in the court. The value of the masterships hence rose to a fabulous height, and, in proportion, the fee on entering upon the office demanded by the Chancellor.

The charge that, John Mellor having sold his office to his successor John Borret for £9000, the Lord Chancellor had exacted a further fee from the latter of £1575, formed Article iii. of Lord Macclesfield's impeachment in 1725, on which John Mellor was summoned to give evidence³.

John Mellor, however, appears to have had no share in the reckless and unscrupulous speculations which brought many of

¹ P.O. Canterbury.

² *Harl. Soc. Pub.* xxx. 102.

³ *State Trials*, xvi. 770, 773, 887, 1099; II. 237, f. 22; and below, p. 87.

the masters and the suitors in court to ruin. Indeed he wins the honourable distinction of both succeeding and preceding bankrupt masters, who had squandered or embezzled the money committed to their trust. He was much respected in his county, became possessed of a considerable fortune and enlarged and improved Erthig house and estate. We meet him frequently in the family correspondence. He was consulted by the elder Philip Yorke on the choice of a law-tutor for his son¹. Later, as one of the leaders of the Whig interest in his county, he kept the Attorney-General well informed of the doings and plans of the Jacobites and enemies of the administration in North Wales². He provided him with his qualification in landed property on his first entrance into Parliament till the death of the elder Philip Yorke in 1721 rendered this no longer necessary³. He was one of the trustees of his marriage settlement in May 1719⁴, and godfather to his second son, Charles, born in 1722⁵. John Mellor died unmarried in 1733⁶, and Erthig then passed into the possession of his nephew, Simon Yorke. Simon Yorke the elder, the latter's father, had predeceased Mr Mellor and had died in London in 1729. The records of his life and career are exceedingly scanty. One letter alone of his writing, and that on a subject of no importance, remains⁷. But we may gather from certain scattered allusions that, apart from an advantageous marriage, he was the least prosperous of the family. At one time, indeed, he appears to have been confined in a debtor's prison. "My unfortunate uncle Symon," writes the young Philip Yorke, "is still where my Father left him, and I am afraid must be so unhappy as to remain there unless some speedy way be found out to release him. My aunt and her eldest son (who has a place in the C[harter] H[ouse]) lodge at Cos. Laury's, and the youngest is at school⁸." Later, in 1727, Sir Philip Yorke received the thanks of his family for his kindness to his uncle⁹. Simon Yorke's death, which had taken place the night before, from the stone, is announced to John Mellor on August 26, 1729, by his son Simon the younger. "He was sensible to the last. My mother and sister and self received the sacrament w[i]th him ab[ou]t two Hours before his Departure: poor Man! He was unhappy upon many acco[un]ts; but chiefly so, in falling under the displeasure

¹ H. 11, ff. 6, 9.

² p. 76.

³ H. 11, f. 32.

⁴ H. 11, f. 18.

⁵ p. 77.

⁶ His grave and monument are in Marchwiel Church, near Erthig. His portrait is at Erthig.

⁷ Erthig MSS.

⁸ H. 236, f. 158.

⁹ p. 45.

of the best Friend that ever any Family met with." His widow Anne Yorke, *née* Mellor, of whom there are several letters among the manuscripts at Erthig, does not appear to have resided at Erthig but in London with her daughter Elizabeth Lawry, and dying at the age of 88 in 1748, she was buried in Bloomsbury Church in the "South Cross Aisle." She had two sons besides Simon, Henry who pays a visit to his relations at Dover, aged 12, in 1707, and John who left England for abroad in 1718, but both of these died young¹.

In spite of his clouded career, however, Simon Yorke is an important personage in the family history as the founder of a separate and a younger branch, which has held Erthig ever since and which is represented at the moment of writing by three male descendants alone, Philip Yorke, the present owner, and his two sons, Simon, born in 1903, and Philip in 1905. The great man of this line was Philip Yorke (1743–1804), grandson of Simon Yorke, M.P. for Ilchester and author of the *Royal Tribes of Wales*, and an ancestor by a second marriage of another family offshoot, that of the Wynne Yorkes of Dyffryn Aled, now extinct.

The history of the Yorkes of Erthig, which we can only glance at here, proved a very different one from that of their more ambitious cousins at Wimpole. Far away from the turmoil of politics and unenvious of the spoils and honours of office, they lived for the most part retired lives, taken up with rural pursuits and with local or domestic business, and appearing very seldom in public affairs, but handing down from father to son, through their different generations, the qualities ascribed to the first Simon Yorke of Erthig, those of "a pious, temperate, sensible country gentleman of a very mild, just and benevolent character."²

We now come to Philip, the fourth son of Simon Yorke, by the death of his elder brothers the chief representative of the family and the most important as the father of the Chancellor. He was baptized on November 11, 1651³, and claimed his freedom of the town on January 31, 1672⁴. He chose as his profession that of a solicitor and, at the Dover Sessions of September 1677, he was admitted and sworn an attorney of that court⁵. He

¹ Erthig MSS.

² Inscription on his tomb in Marchwiel Church.

³ St James's Parish Register.

⁴ Freeman's Book at Dover; Add. 29,625, f. 108.

⁵ Sessions Book, Eg. MSS. 2115, f. 24.

appears to have obtained a substantial practice in the town and to have held a position of considerable local influence.

The few allusions to him which occur in the Corporation Records show that he followed in his father's footsteps and upheld strenuously the cause of municipal freedom. The position of parties had greatly altered towards the close of the reign of Charles II. The violent conduct of Lord Shaftesbury and of the more extreme faction of the Whigs who sought to exclude James from the throne in favour of the illegitimate Duke of Monmouth, had led to a Tory reaction. The King hastened to strike while the iron was hot, and to secure the permanent subservience of Parliament by manipulating the Corporations; for by these bodies the members of Parliament for the boroughs were generally chosen. A writ of *Quo Warranto* having been issued against the Corporation of London, which after a struggle met with success in 1682, the boroughs in the provinces were next attacked. The municipal privileges of Dover were valiantly defended by Thomas Papillon, a member of a Huguenot refugee family, who had long been the upholder of freedom in religion and civil government and who had successfully resisted the attempt of the government in 1673, by intimidating and kidnapping the electors, to exclude him from his seat in Parliament for the town. He was assisted, as the following document seems to show, in his defence of the rights of the Corporation, by the elder Philip Yorke.

The Corporation of Dover

	£ s. d.
1683 June 25	
Paid to Mr Goddin by order in payment of his bill of £13. 7s. 4d. charges about the quo warranto as by his bill & account]	10 00 0
Alsoe paid to Mr Baker Attorney towards his fees and charges	02 10 0
Expenses with Mr Goddin & Baker post of letters paines etc.	00 10 0
	<hr/>
	13 00 0

July 10th 1683

Recvd of Mr Edward Wivell one of the Chamberlayns of the said Corporation
thirteene pounds in full of this Bill

by me Ph. Yorke¹.

All resistance, however, at Dover, as elsewhere, to the encroachments of the government was hopeless, now that the court had the support or acquiescence of the subservient Parliament in its despotic measures. In spite of Thomas Papillon and his friends, the Mayor

¹ In the possession of Mr Martyn Mowll of Dover who kindly communicated it. See also the accounts of Oct. 9, 1683, Dover Records.

and Corporation stopped all the proceedings in defence of their liberties which had been thus begun, on October 24, 1683, and "with unanimous consent submitted to his Majesty's pleasure when the same shall be known in all matters relating to the Quo Warranto." The charter was surrendered and to the King was also ceded the choice of the member of Parliament for the borough. Shortly afterwards Thomas Papillon was corruptly convicted of the malicious imprisonment of the Lord Mayor of London and fined the enormous sum of £10,000; whereupon, after hastily mortgaging Acrise, his country place near Dover, to his son-in-law, he once more fled abroad¹.

On the advent of James II to the throne, in 1685, a cringing address was drawn up at an assembly of the representatives of the Cinque Ports and sent to the new King, promising to expel all those who had taken any part in the Exclusion Bill, acknowledging the right of the Lord Warden to name the members of Parliament and surrendering their charter and liberties. They do not seem, however, to have gained much by their submission. In 1688, as a small part of the great *coup d'état*, which James imagined himself capable of carrying out throughout the kingdom, the mayor and jurats were all summarily expelled. The complete failure in which these proceedings terminated is well known. A few weeks later the King, alarmed at the consequences of his folly and at the approaching invasion of William, hurriedly restored all the members of the Dover Corporation and of other municipalities whom he had expelled, to their places. Such measures, while they could not appease universal discontent, were merely a sign of the inevitable progress of events. The Revolution, which now immediately followed, put an end to the anarchy and confusion which had reigned at Dover, as in so many other towns, ever since the collapse of the lawful government and the outbreak of the Civil War, and which had impeded the natural development of the country in trade and prosperity. A new epoch was now to open in which a freer air was breathed and in which England, sounder at the core, unfettered by artificial bondage imposed at home or by unnatural alliances abroad, and no longer weakened by profitless internal dissensions, was to advance to empire by leaps and bounds.

After the collapse of the attempt to resist the *Quo Warranto* proceedings there is nothing to show that Philip Yorke took any

¹ A. F. W. Papillon, *Life of Papillon*; *Dict. of Nat. Biog.*

part in municipal business. A common tradition, which has been supported by the respectable authority of Hasted and is apparently strengthened by the document quoted above¹, represents him as Town Clerk of Dover, but there is no mention of him in this capacity in the Corporation Records², and the Corporation Act would have disqualified him for the office. It is more probable that as the leading solicitor in Dover and as a man of local influence and position he was consulted and employed occasionally by the town council, and especially in such delicate matters as resistance to the royal authority, when the regular officials of the Corporation would be unwilling to hazard their places and profits.

In the first assembly which met after the Revolution on January 7, 1689, Philip Yorke was chosen councillor together with John Godden, presumably the same whom we have seen above collaborating in the defence of the municipal liberties. In this year the Act of Toleration was passed which relieved the frequenters of conventicles from the penalties to which they were liable, on the condition of their taking the oath of allegiance. But the Corporation Act remained unrepealed, and the oaths demanded now from Philip Yorke as the qualification for holding office were the same as those refused by his father, Simon Yorke, in 1662³. They were now refused by the son as appears from the following entry⁴:

1689 July 1 att a Coñon Assembly.

Whereas Mr Philip Yorke [& others] were att a Coñon Assembly holden in the Guildhall of the said Towne on the seaventh day of January last past duly elected & chosen of the Coñon Council of this Corporaçon & have been duly summoned to appear to take their severell oaths...but have neglected and refused soe to doe, therefore the said persons...are by this assembly fined att five pounds apeice which said fine...is now ordered by this assembly to be forthwith demanded of them...by the Town sergeant, and if they or any of them doe not pay the same in one and twenty days after demand thereof...that then the said fine...shall be levied on them or such of them as shall refuse...by distresse on their goods and chattels.

It was only slowly and gradually and in consequence of the new security to the stability of government afforded by the constitutional settlement at the Revolution, that the full measure of

¹ *Hist. of Kent*, iv. 119.

² These, however, are lost or defective between the years 1684-8.

³ p. 17.

⁴ Dover Records.

religious and civil liberty in England was at last obtained and enjoyed.

Meanwhile Philip Yorke had had a prosperous and successful life. Except as residuary legatee, as entitled to a share with his two brothers of his father's household goods and plate and as his sole executor, he is not mentioned in Simon Yorke's will, doubtless because he had already received his portion and had been established in his profession. By the death of his three elder brothers without heirs, he became his father's heir-at-law and head of the family. On April 18, 1680, before his father's death, he had married Elizabeth Gibbon, only child and heiress of Richard Gibbon, of Dover¹, and widow of her cousin Edward Gibbon, of Westcliffe in Kent, by whom she had issue one son, Philip Gibbon, who died young. The allegation of their marriage is as follows :

1680 April 7 Philip Yorke of St James, Dover, Kent, Gent: Bach^r
ab^t 27 & Elizabeth Gibbons [sic], of St Mary's Dover, Widow,
ab^t 20, with consent of her mother; alleged by Symon Yorke of
St Peter's, Cornhill, London, Grocer², at Huffham, co. Kent³.

The alliance with the Gibbons connected the Yorkes more directly and more closely with Dover, and with various local Kentish families, in which county the Gibbons had been established since the 14th century. The branch from which the mother of Lord Chancellor Hardwicke sprung was that of the Gibbons of Westcliffe—an estate lying behind St Margaret's Bay in the immediate neighbourhood of Dover—of which the founder had been Thomas Gibbon, who had bought Westcliffe from Lord Brough in the time of Elizabeth, and who was buried in Westcliffe Church on January 15, 1596⁴. Notwithstanding some slight differences in arms, the Gibbon family of Westcliffe and that of Rolvenden in the same county, came of the same stock⁵. Writing at some date prior to 1645, John Philipott, the herald, says: "Hole...for many Descents last past...hath been the Patrimony of *Gibbons*, who held land in this parish in the year 1326, and was the Seminary or Original Seed-plot, whence all of that Name and Family in Kent primitively sprouted forth, and though Sir *William Segar* did assign to Mr *Gibbons* of *Westcliffe*, a *Lion Rampant between three*

¹ Register of St Mary's, Dover.

² p. 25.

³ *Harl. Soc. Pub.* xxx. 26.

⁴ Brydges, *Gent. Mag.* lxvi. 272.

⁵ H. 900, f. 7. Cf. Hasted, iv. 29, iii. 87, 240; *Gent. Mag.* lviii. 700; Berry's *Kent*, p. 408-9; Guillim, *Display of Heraldry*, iv. 359; Ed. Gibbon's *Autobiography*, ed. by O. F. Emerson, 3.

*Escallops*¹, and to this Family, a *Lion Rampant between three Ogrises*, as their Coat-Armor, yet in ancient coloured Glasse at *Hole*², now the Inheritance of Colonel *Robert Gibbons*, the paternal Coat of this Family, is represented to have been, *Or, A Lion Rampant, Sables, charged with an Escarbuncle Pomettee and Fleurette of the first*, which I mention that this family now of *Hole* might receive no prejudice by his mistake or inadvertency³.

The Yorkes became allied by this marriage with, amongst other Kentish families, the Brydges of Wootton Court, John Brydges having married Jane, the only daughter and heiress of Edward Gibbon who, by his second marriage with Elizabeth, afterwards the wife of Philip Yorke and mother of the Chancellor, was also the father of one son, Philip Gibbon, half-brother to the Chancellor and to Mrs Brydges, but who did not grow up to manhood. The grandson of Mrs Brydges was the talented but eccentric Sir Samuel Egerton Brydges, genealogist, editor, poet and unsuccessful claimant to the barony of Chandos, in whose *Autobiography* allusion is often made to his Yorke kinsmen and to the veneration which the name and memory of the great Chancellor inspired in his family⁴.

But by far the most distinguished relation of the Chancellor on his mother's side was Edward Gibbon, the historian. The relationship, which is drawn out on a paper, in the latter's handwriting, no doubt forwarded to the second Lord Hardwicke, who was already a correspondent and a patron, was but a distant one, both tracing their descent to a common ancestor in Philip, the second Gibbon of Westcliffe, who built or restored the family house at Westcliffe, and who was the great-grandfather of Elizabeth Yorke, the Chancellor's mother, and the ancestor, through two further generations, of Edward Gibbon⁵.

This Philip Gibbon married in 1586 Elizabeth Philipott who

¹ They are given by the Chancellor as Sable, a lion rampant, guardant, or, between three escallops argent, H. 900, f. 7.

² According to Hasted, iii. 87, this glass was brought from Pumphouse in Benenden "where it had been for a great length of time."

³ *Villare Cantianum*, 296, 73. This Sir Wm Segar (Garter 1603-33) appears to have performed his duties so badly as to grant arms to the common hangman, and for his mistake suffered imprisonment. Also *Introductio ad Latinam Blasoniam* by John Gibbon, 160, 157; Berry, *Hist. of Kent*, 408; Hasted, iii. 240, 746; Harl. MSS. 1106, f. 113; Visitation of Kent, 1619; Add. MSS. 14,307, f. 19 b.; Add. 5507, f. 179; Philipott's Visitation, 1619-1621; and Add. 5526, f. 106; Harl. 1548, f. 164 b.; Harl. 1432, f. 247; Sir S. Egerton Brydges, *Gent. Mag.* lxx. 585.

⁴ Vol. i. 41, 96 and 120.

⁵ H. 900, f. 9; Sir S. Egerton Brydges, *Autobiog.* i. 96, 119, 225, ii. 19; *Gent. Mag.* lxx. 584, lxiv. 5, lxvi. 271, lxvii. 917.

came from a family which had long resided at Upton Court at Sibertswold or Shepherdswell, a neighbouring parish to Westcliffe, to which John Philipott, the Elizabethan herald, from whom we have already quoted, belonged. The founder of this family was Sir John Philipott, Lord Mayor of London in 1380, who in the reign of Richard II by his presence of mind and resolution, together with the actual Mayor, Sir William Walworth, who killed Wat Tyler, saved the king's life on the historic occasion of the revolt of the villeins in 1381, overawed the mob and restored order¹.

Richard Gibbon, the Chancellor's grandfather (1627–79) married Deborah Stratfold. They are both buried in St James's Church at Dover, where there is an inscription to their memory. Mrs Richard Gibbon lived on well into the life of the future Chancellor, dying in 1719 at the age of 81. An interminable dispute with her daughter, Elizabeth Yorke, on the subject of certain lands, is the only record, however, which remains of her, though no doubt she had other claims to immortality².

Of the children of Richard and Deborah Gibbon only one survived, the Chancellor's mother, the sole heiress of her father and the last Gibbon of this branch.

Edward, the historian, who died in 1794, was, moreover, not only the last of his line but of the whole race of Gibbons. The elder branch at Westcliffe had long become eclipsed in daughters. Westcliffe itself, the estate of which in Hasted's time (*c.* 1778) consisted of 500 acres, had been alienated in 1660 from the Gibbon family, and the house is described by Sir S. E. Brydges in 1788 as a "ruined farmhouse" in a "deserted condition"; while all the various branches of the Gibbons of Rolvenden were by that time extinct, the last Gibbon of Rolvenden disappearing without posterity in 1775³.

We must now return to Mr and Mrs Philip Yorke, the Chancellor's parents. They lived in a house with a considerable frontage, now divided into three and numbered 179–181 in Snargate Street, but still remembered by old inhabitants of Dover as the "Yorke's House" or the "Yorke Mansion," the garden of which stretched up the hill to Adrian Street—where was a detached room opening into Five Post Lane and supposed to have

¹ *Fasti Oxonii* (Bliss),² Pt ii. p. 62; Weever, *Funeral Monuments*, 266; Philipott, *Villare Cantianum*, 167, 215; Hasted, ii. 84, iv. 3; Add. MSS. 14,307, f. 37; *Gent. Mag.* (Sir S. E. Brydges), lviii. 699, lxvii. 917.

² p. 40.

³ Hasted, iii. 87, iv. 29; *Gent. Mag.* lviii. p. 700.

Thomas Gibbon of Westcliffe, descended = Thomasin, bur. at Westcliffe, 1617
from the Gibbons of Hole in Kolvenden,
bur. at Westcliffe, Jan. 15, 1596

Philip Gibbon of Westcliffe = (1) Dorothy Best
d. Aug. 24, 1629
2 dts., and heiress of...
Philipott, bur. Sept. 16,
1647, aged 80

Matthew Gibbon

= (2) Alice da. of Chernesey Selhurst

Matthew Gibbon of Westcliffe = Elizabeth White
bap. 1556, lived at Solton in
Westcliffe, bur. 1648 at
Westcliffe

Matthew Gibbon bap. 1620 Margaret
bap. 1556, daughter of William Stratford
of Stratford-upon-Avon, d. 1629
Philip Gibbon bap. 1629
Capt. Nicholas Eaton
Cordelia

Matthew Gibbon = Deborah, daughter
of Dover, 5th son, b. 1627, d.
London and grandchild of
Thomas Kitchell, d.
Putney, bap. at
Westcliffe, 1642,
bar. at Putney,
1709

Matthew Gibbon bap. 1636

Philip Gibbon bap. 1639

Elizabeth White

Philip Gibbon bap. 1639

Capt. Nicholas Eaton

John Gibbon bap. 1631

act. 81

Thomas Gibbon bap. 1636

Cordelia

Matthew Gibbon daughter

Mary bur.

1634, at

St. Mary's,

Dover

a daughter

Philip Gibbon

Philip Yorke

of Dover

surviving child

Philip Gibbon

Philip Yorke

afterwards

Lord Chancellor Hardwick

Edward Gibbon the historian,

b. 1731, d. 1794, unmarried

Sir Samuel Egerton Brydges

1 Berry's *Kent*, 488-11; Sir S. Egerton Brydges, *Stennata Illustris*, 94-96; Gent. Mag. Iviii. 698-700, lxx, 584-5, lxiv, 94-5; Hasted (1790), iv. 29, iii. 762;
T. Philipott, *Villare Cantuarium*, 206, 296; Heralds' Visitation, Add. MSS. 5507, f. 179; Registers of St James's and St Mary's, Dover.

been used by the elder Philip Yorke as his office. The fabric is still standing but so changed from its original condition that it is impossible, even for the most powerful imagination, to restore it to its appearance when the home of Philip Yorke. It is now divided into three small dwellings, while shops and dingy houses occupy the former garden behind.

The future Chancellor's parents lived here for many years. They had a large family of six daughters and three sons, of whom, however, only three grew to maturity, Philip, the subject of this biography, born December 1, 1690¹, Mary, born 1696², and Elizabeth.

It will be convenient first to follow the lives and fortunes of the Chancellor's two sisters. Mary married January 14, 1722, at St Mary's Church, Dover, Charles Valence Jones, Esquire, of Penrose, Cornwall; a barrister and a representative of an old family, which had long possessed estates in that and in other western counties³.

Mr Valence Jones, however, proved anything but a desirable husband. His affairs became soon hopelessly involved. He left his family at Mrs Philip Yorke's house at Dover for long periods, and only returned home to appal his wife, in the intervals of despairing fits of silence and intoxication, with the announcement of fresh financial disasters. At first his brother-in-law, Sir Philip Yorke, endeavoured to restore his affairs to order and to support his sinking credit, advanced money and obtained for him employment, but the unfortunate Mr Jones could not profit by this assistance and spent the money on other objects. Old Isaac Minet thus writes of him in his diary at Dover, April 1737: "The youngest daughter married Councillor Jones who doth not practice, nor hath he exerted himself, nor procured the esteem and love of his brother-in-law, the now Lord Chancellor, by which means hee could obtaine good employes, but soe it happeneth that the difference is extreame between the Lord Chancellor and his sister's husband⁴".

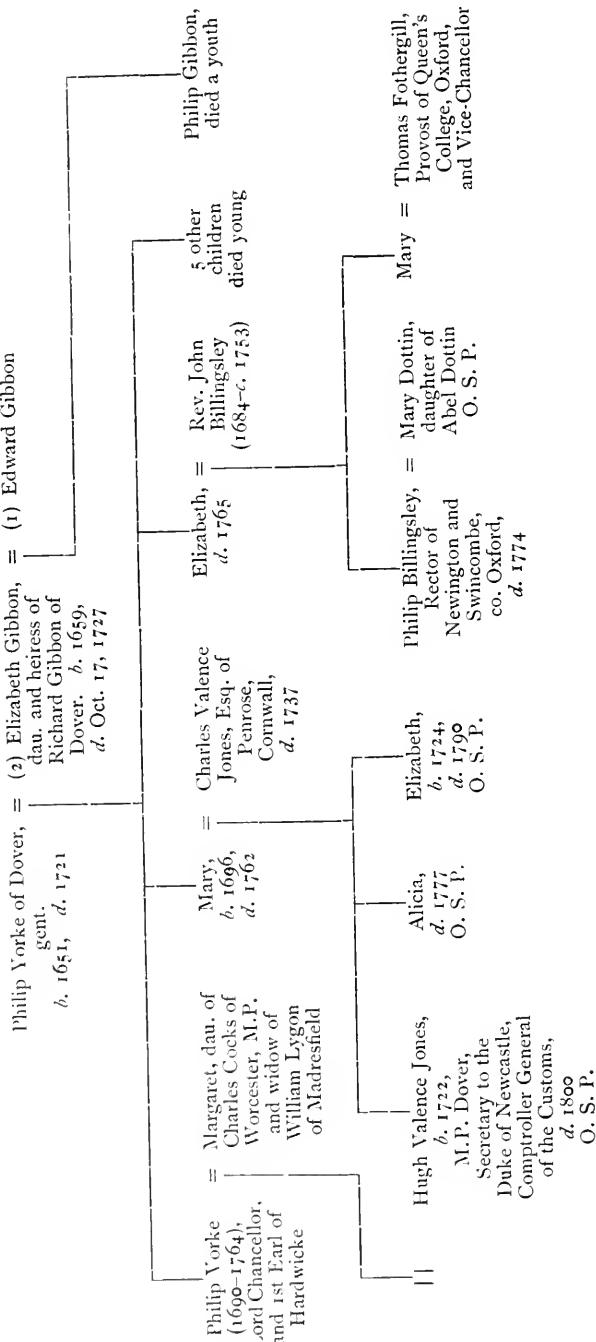
The unhappy man appears to have gone from bad to worse. He was arrested for debt, and finally contracted a fatal illness, and died in the 38th year of his age, on July 1, 1737, leaving his

¹ H. 900, f. 1. See also memorandum of Isaac Minet, *Huguenot Family of Minet*, by W. Minet, p. 66.

² Inscription in St James's Church; *Miscell. Geneal. et Herald.* 2nd series, iii. 309.

³ See a pedigree of this family, Wilts. Visit. 1677, in Sir Thos. Phillipps's Collections; *Miscell. Geneal. et Herald.* 2nd series, iii. 308; *Gent. Mag.* l ix. 584.

⁴ W. Minet, *Huguenot Family of Minet*, 66.



family with very slender means of support. After her mother's death in 1727, Mrs Jones appears to have lived with her sister Mrs Billingsley and later in London. She received an annuity from a fund of which the Chancellor was trustee, who treated her with kindness and who also settled small portions upon her two daughters¹. She died October 6, 1762, aged 66². The daughters, who died unmarried³, and one son survived their parents.

Hugh Valence Jones, born December 9, 1722, entered the public service and performed duties of importance and responsibility with credit and success. In 1743 he was made Secretary to the Duke of Newcastle, accompanying the latter when he attended the King on his visit to Hanover in 1748. His name often occurs in that capacity in the political correspondence and negotiations of the time. He preceded Colonel Joseph Yorke, the Chancellor's son, as M.P. for Dover, but resigned in 1759 on accepting the post of Commissioner for the Revenue in Ireland, and later obtained the lucrative appointment of Comptroller General of the Customs and of Solicitor to the Treasury. He appears to have died unmarried in London in 1800, and was buried at St James's Church, Dover, with his parents and family⁴.

Elizabeth, the Chancellor's other sister, obtained a husband fortunately of a different character in John Billingsley, a nonconformist minister who belonged to a well-known family of dissenting divines of high standing and ability. His grandfather, John Billingsley the elder (1625-84), fellow of Corpus Christi College, Oxford, though a strong royalist, refused to subscribe to the tests demanded by the Act of Uniformity at the Restoration and was one of the 2000 nonconformist ministers deprived of their livings in 1662⁵, and his father, John Billingsley the younger (1657-1722), presided over the dissenting body at Crutched Friars⁶. The name occurs occasionally in the Dover records⁷, and the family was probably descended from, or connected with, Sir Henry Billingsley (d. 1606), son of Roger Billingsley, of Canterbury, and Lord Mayor of London, celebrated as the first translator of Euclid into English.

¹ Below, pp. 40 sqq.; II. 11, *passim*; II. 880, ff. 274, 280, 337; II. 881, ff. 107, 144.

² II. 11, f. 329.

³ *Miscell. Geneal. et Herald.* N. S. iii. 139.

⁴ II. 11, ff. 42, 207; Min. of Common Assembly, Dover.

⁵ He wrote a pamphlet against George Fox, the Quaker, entitled *The grand Quaker prov'd a gross Liar...* to which Fox replied with, *The great Mystery of the great Wh...e unfolded...*

⁶ See their lives in the *Dict. of Nat. Biog.*

⁷ Corporation accounts at Dover; *Life of Thomas Papillon*.

John Billingsley, husband of Elizabeth Yorke born in 1684, had charge of the Presbyterian congregation at Dover, and in 1732, shortly after his marriage, took orders in the Church of England; but it was some time before the Chancellor, who was exceedingly scrupulous and careful in his ecclesiastical patronage, procured him a living. He eventually obtained those of Newington, Oxfordshire, and of Purley in Berkshire and a prebend of Bristol. He died in 1753 or 1754, leaving two children, Philip and Mary¹. It is honourably recorded of him "that he maintained friendly intercourse with the dissenters to the last²." His wife survived till 1765.

Philip Yorke, the Chancellor's father, lived at Dover till his death. Edward Lloyd, the successor of Henry Yorke as rector of Ripple, writes of him in the parish register as an "obstinate executor, well versed in the knavish part of the law, and very resolute to insist upon it." But we do not hear Mr Philip Yorke's opinion of the Rev. Edward Lloyd. Doubtless he was a good man of business and a person of some influence and standing in his native town, which was considerably increased by his son's reputation; for before his father's death, at the early age of 29, the latter had been made Solicitor-General, and was already regarded as one of the ablest supporters of Sir Robert Walpole's administration. A correspondence, of which the early part is in Latin, testifies to their mutual affection, the anxiety and care of the father for his son's education, progress and welfare and the son's responsive energy and industry³. He died on June 18, 1721, in the 70th year of his age⁴.

Mrs Yorke survived till 1727 and continued to live at Dover, where the unfortunate Mrs Jones joined her and where her other married daughter also resided. Her letters to her son⁵, written in a tone of warm affection, turn chiefly on the subject of her son's

¹ *Miscell. Geneal. et Herald.* i. 299; H. 8, f. 219; H. 11, ff. 194, 246, 250, 264, 272, 294; Add. MSS. 5823, f. 136.

² See life in *Dict. Nat. Biog.*

³ H. 236, ff. 5-14, 94, 96; H. 11, f. 1; H. 344, f. 173.

⁴ There is no truth in Cole's statement that "being of a melancholy turn of mind [he] made away with himself either by drowning or hanging," Add. MSS. 5823, f. 135. There is no trace of any such incident at Dover where it would almost certainly have been remembered and recorded, and his death is mentioned without any of these fictitious tragic accompaniments both in the *Political State of Great Britain*, xxi. January 27, 1721, and in the *Historical Register*, vi. 27. The copy of the fifth edition of Collins's *Peerage* in the reading-room of the British Museum, v. 318, has the same assertion scrawled in the margin by a ?Tory hand. Cf. Hasted, *Kent*, iv. 99. Of the same character is the anecdote copied by Cole with great gusto from the *London Chronicle* of April 3, 1770. Add. 5823, f. 136.

⁵ pp. 40 sqq.

Dover property, of which she received the rents, and on her longing desire to see him at Dover, a wish which, owing to the latter's increasing press of public and professional business, became each year more difficult of realisation.

The inscription on the tombstone of the Chancellor's parents in St James's Church, Dover, which was placed there by his directions, runs as follows :

Arms, Yorke impaling Gibbon¹.

"Here lieth the Body of Philip Yorke Gent: who married Elizabeth, the only child of Richard Gibbon Gent: and had issue three Sons and six Daughters, of whom one Son and two Daughters are surviving, the other six lye interred near this place. He died June 18 : 1721 in the 70th year of his age.

Here lieth alsoe the body of the said Elizabeth, wife of the above mentioned Philip Yorke, who died October 17th, 1727, in the 69th year of her Age.

Quos Amor in Vitâ conjunxit non ipsa Mors divisit²."

CORRESPONDENCE

Philip Yorke, from his school, to John Mellor of Erthig

[H. 11, f. 7.]

BETHNAL GREEN, Nov. 4, 1706.

WORTHY S^R

Being oblig'd by a command, which I dare not disobey, and emboldened by your many favours; I have presumed to offer to your perusal a copy of my grandfather's will³, and to desire your judgment in the following case: which please to take briefly thus. The testator, (as you will find,) has left my grandmother tenant for life to a farm called Wansone, not far from Dover, and settled it upon Rich^d Gibbon, my late brother in law⁴, with many provisoës in case of his decease without issue, which happened several years ago. Since that it has been frequently contested between my mother and grandmother, (not without some heat) whether after my said grandmother's death, the former be heir to this estate, and can dispose of it at will, or be only tenant for life, as the latter is at present. My grandmother indeed sometimes won't allow that she

¹ See below, p. 44.

² See also *Miscell. Geneal. et Herald.* 2nd series, iii. 309.

³ Richard Gibbon of Dover, p. 34.

⁴ No doubt his half-brother, whose name, however, is usually given as Philip.

is either, but asserts that she has a right only to £30 per annum, and that the article, in which that annuity is mentioned, is of the same force as if my brother were living. But I concieve this will appear to be a mistake.

My mother being desirous to be satisfied therein, and to put an end to this dispute, engaged me when I was last with her to crave this favour of you, bidding me assure you in her name that she should esteem it a great obligation if you would interpose your opinion concerning it, because she thought it not proper for some reasons to refer it to my Father. I hope Sr you'l pardon this trouble, and at your leisure honour me with an answer, who shall allways be ambitious to evince, that I am

Yor^r most obliged and humble servant

PHI: YORKE, Jun^r.

Pray Sr give my humble service to my Cos. your Sister, and acquaint me in your next whether you have seen Mr Trigarie¹.

Mrs Elizabeth Yorke to Sir Philip Yorke, Attorney-General

[H. 11, f. 69.]

[n. d.]

DEAR SON

I should not haue been so long before I had wrote to you if I could do it without great trouble but both my eyes & hands fail so much that it is very difficult for me to do it in any tolerable maner; I haue been much concerned at not seeing of you in so long a time & do assure you it is what I the most earnestly desire of anything in this world which I cannot expect to continue a gret while in; I should be very glad to settle those afairs that are between us which I shall take care to keep very justly & you may depend upon haueing a true account from me when euer you require it with all that belongs to you; the princable occasion of my writing is Mr Jones affair which has giuen me much concern I & his wife haue urged him earnestly to make up this mater in the best maner he can he went for London a few days ago & seems resolued to put an end to it as soon as he could which can not be done no other way then by disposeing of some part of his estate I understand he hopes Mr Chapple will aduance the money at presant & take the estate in to his hands for security till it can be disposed of to any tolerable advantage I much desire that for the sake of me & his family which increses apace you would be so kind to send for him & aduice him in a friendly

¹ The solicitor recommended by Mr Mellor for his law-tutor. Another letter on the same subject, H. 11, f. 10.

maner to finish this mater in the best way he can for the thought of it giues his wife as well as myselfe a great deal of trouble. I hartily wish he could fall in to a saml [small?] shere of busnes to help suport his family but if his cappacity is not so great as may be necessary for that Implyment could there be no place procured either for Interest or money which might be of sume aduantage to him & not inconsistant with his busines I should greatly reioyes at any thing that might be benifishall to them & which might tend to preuent there going into Cornwel¹ wile I liue which would be a very great greife to me: I refer this mater to your beter judgement & should be glad to know your thoughts about it & shall take any kindnes done to them as the greatest Instance of your affection to me; I conclude with my best respects to you & yours & my harty prayers to Almighty God to bles & prosper you in all things

I am euer your affectionate

Mother ELIZ: YORKE.

febry 9th

Mrs Jones to the Attorney-General

[H. 11, f. 67.]

[DOVER, Nov. 23, 1724.]

DEAR SIR,

My mother has informed me of an affair which has given me a most inexpressable Concern and Surprise, for I really believed since you were so kind to let Mr Jones have the Last Sume of money his Circumstances where perfectly easy both from his temper and behaviour and how a man could seem intirely satisfied when such a Calamity was just a comeing upon him is amaysing.... If it be not so in reality I am the most deceived and unhappy person that can be. I am very sencible I have no right to ask any favor of you but yet I presume to beg you would be so good to give yr self the trouble to talk to him very freely of this mater and give him what directions and admonisons you think proper, this I shall take as the greatest Instance of yr Goodwill to me and mine....

Ever with the Greatest Respect Dear Sir yr most affectionate Sister and humble Sert.

M. JONES.

Mrs Elizabeth Yorke to the Attorney-General

[H. 11, f. 92.]

[n. d.]

DEARE SON,

This comes to Inquire affter the health of you & your familye which I haue not heard of by letter from you this eight months. I haue sumtims the satisfaction of hereing by my son

¹ Mr Jones's estate was at Penrose, Cornwall.

Jones & others but I should take it much kinder to haue now and then a line or so from your selfe, tho I am very senceible the Ingagements of your offces & other busines are very great. I now am going to request what I hope and much desire you will not deny if it be possible to comply with it & that is that I may haue the happines of seeing you once more; for I find the Infirmitys of age aduance upon me which makes me the more desireous of seeing you & that we may settle those affairs which are between us which I belieue will be very easely done I haueing been as carfull in keeping of all accounts as possible. I hope there will be a litle money in bank for you this year tho it has been a great while frist [first] because of the large repaire which I haue ordered with as much frugality & took as proper aduice puon [*sic*] as I could being what I do not vnderstand myselfe, but they tell me that most of the easte [estate] is now in good repaire I haue only to add that I desire to hear from you & that all freinds with me are well & send their best respects to you. I conclude with my kind loue to you & yours & hartily pray to Almighty God to bless & prosper you in all things.

I am always your affectionate

Mother ELIZ: YORKE.

April 2nd.

Mrs Elizabeth Yorke to the Attorney-General

[H. 11, f. 98.]

[n. d.]

DEARE SON,

I receiued yours of 11th by which I find you haue been in a great huriy of late which I fear may proue prededisall to your health but hope you haue found benefit by the cuntury air & a little respite from business a [?] as you intended to take in the hollowdays....As to their [M^r and M^{rs} Jones] lieing with me it is really uery satisfactory to me & no disadvantage for they haue paid me hansomely for their boord since they were married, & for his part I must do him the iusteces to say his conversayion is sober & inofenciuе I wish more of his time where taken vp with business which I hope wold be agreeable to him as well as me I shall add nor more but my harty desire to see you this sumemr & prayers for the hapiness of you & yours and am

your affectionate Mother

ELIZ: YORKE.

April 28th.

Mrs Elizabeth Yorke to the Attorney-General

[H. 11, f. 114.]

[1725.]

DEARE SON,

I had your kind letter one Saterday night for which I return you many thanks & do take the addision¹ you are pleased to make to my Income as an Instance of your good will and affection to me: I flattered my selfe much with the thoughts of seeing you which I do most earnestly desire & its a real Concarn to me that I am disapinted so long I still hope that when you can spare a few days you will be so good to comply with my disire when it can be with out pregduice to your selfe; I am glad your purchase in Glostershire² proues to your satisfaction & should be well pleased if I should liue to see you make one in Kent in some time....

*October 12th.**Mrs Elizabeth Yorke to the Attorney-General*

[H. 11, f. 134.]

[n. d.]

DEARE SON,

I receiued your last kind letter & hoped by this time to haue been certain of seeing you here but I understand by yours to the towne Clerke³ & also by my son Jones you cannot yet fix upon any time I hope your busines & priaute affairs will not be so pressing but that you may find a few days before the end of the vacation to see your freinds at Douor & to look into those little maters that are betwen us: I do uery earnestly desire to see you & wish I may not be disappointed any longer I desire to here from you to know when I may be so happy to expect you; I haue nothing more to add but that all freinds with me are well & send there best respects to you my kind love & harty prayers for your hapiness atend both you & yours. I am your most

affectionate Mother

ELIZ: YORKE⁴.*July 12th.*¹ Of £20 a year (f. 115).² Of the Hardwicke estate, see p. 107.³ Robert Wellard, town clerk of Dover.⁴ Other letters from the same, ff. 34, 39.

Mrs Jones to her brother the Attorney-General

[H. 11, f. 138.]

[Nov. 1, 1727.]

DEAR SIR,

I have yrs wherein you are so good to express an intire satisfaction in my mother's disposeial of her affairs¹. My sister & I both very much wish my Dr mother who no dout desined us all the good was in her power had secured what she left to our own separate use but it was what to be sure she never thought of. I prity much wonder the Consideration of my Circumstances should not put it in her mind for she very well new the Great Inconveniences I must have been reducied to had it not bin for her goodness & protection Indeed the thing is not of Great Value but if it had been of much less I should have been glad to have had it at my own Command I would not by any means be thought to repine it's not more considerable for us my mother was so kind to spend her revenue among us in her Life our Obligation to her is the Greater. She has left about Seventy pounds in money besides the old gold that's dispoesed of in her will which is sealed up & directed as she would have it given & I owed about five and forty pounds to her for our bord but from this is to be deducted thirty pounds which she had taken of yr money which would not have been due to her till Crismas as I find by a note she has put in to the bag with yr money. I suppose my being so far behind might be the occasion of her doing it she being unwilling to part with some of her beter sort of money you will perceive that this sume will but defray funeral expences & morning for our selfs & the servants in the family which out of respect to my mother we could not avoid clotheing decently tho with as little charge as we could, we have informed my aunt of the omission in my poor mother's will & she was earnest immeately to make a new one herself²....Inclosed is the impression of the seal you desired³...if it should prove an imperfect guide we must sent a peice of plate where the arms are well done at full. I thought it might be proper to send the inscription that is upon my father's stone that you may make what adision you think proper upon this occasion, the arms are well cut upon it. I think my self greatly obliged that you will be so good to take the trouble of directing Mr Jones to the right settleing of his affaires & hope he will be so wise to deal sincerely otherwise as you observe it will be Impossible to do him any good. I have not heard from him these three weeks which with Hatfield's frequent writing & pressing him to come to London gives me a most

¹ Mrs Yorke died on October 17, in her 69th year.

² Elizabeth Yorke, unmarried daughter of Simon Yorke, who appears to have survived till 1732. The will was made immediately on October 23. MSS. at Erthig.

³ For the Gibbon arms impaled with Yorke now placed by Sir Philip, together with inscription, on his parents' tomb in Old St James's, Dover, p. 39.

Inexpresible Concern. I fear that he is either sick or something very bad is the occasion of his staying so long. We will take care that the repairs which were absolutely necessary shall be finisht at Wanson¹. My aunt charged me to give her kind love to you with thanks for yr goodness to my uncle Simon² with which she is extreamly pleased, pardon me this long scrawl which I fear you will hardly be able to read & believe me to be always,

Dear brother & my only freind yr most
affectionate Sister & humble Ser^t.

M. JONES.

I believe the tankard you have will be the best direction in painting the arms.

Mrs Jones to the Attorney-General

[H. 11, f. 170.]

[April 9, n. d.]

DEAR SIR,

I return my hearty thanks for the favor of yrs & for all your kind concern for me I am to my great affliction fully apprised how contrary Mr Jones acts to his own & family's Interest I wish it was in my power to prevent it & that he could be prevailed upon to apply himself to business which would be the best way to retreve past mistakes, I am greatly obliged for your goodness in endeavoring to procure him a place & wish he may be so prudent for the future to behave himself in such a maner as that he may not be all to gether unworthy of your favors....

Mrs Jones to the Attorney-General

[H. 11, f. 188.]

[n. d.]

DEAR SIR

I hope this will find you safe...I have talked with Mr Jones as much as I can...I have had little or nothing from him this two years & am got so far in debt to my sister I know not what to do & neither her Circumstances nor temper can bear any thing of that nature tho I must be so just to say she has been very kind to me & my childeeren far beyond what I could ever have expected she is now very uneasy because she is going to put out a sum of money & I fully expected a supply when he came home he promises me I shall have some very soon but I have been so often disappointed I cannot depend upon anything & the greatest of my misfortune concists in the unhappiness of

¹ p. 39.

² For his career and misfortunes, p. 26.

his temper for when his affairs go wrong through his own mismanagement or cross accidents which he has meet with his share of he sets down & vexes instead of endeavoring to free himself by prudent methods from them he has been so ill since he came home he eats little or nothing & I fear he is falling into a Jaundice or Consumtione which I take to be wholly occasioned by discontent & uneasiness of mind I cannot charge him with any expencive vice for no man can lead a more regular life than he does when he is with me & *I really think all our Inconveniences are owing merely to mismanagement*, I beg pardon for troubling you thus long but I am so much oppressed with difficulties at present I know not how to act. If i could be certain of his having money returned in a month or two I would intreat the favor of you to assist me at this juncture when I am so much distressed but as I cannot promise a positive time of payment I dare not presume to borrow tho I have the outmost need—my best respects attend you & yours

I am ever Dear Sir

yr most affectionate Sister & humble Ser^t.

M. JONES.

Dover, August 31st.

Robert Wellard (Town Clerk of Dover) to the Attorney-General

[H. 344, f. 280.]

DOVER, Nov. 14th, 1729

SIR

Mrs Jones writes you by this Post, but least she shou'd not be full enough in her letter, she desires I would add a line, tho' I find she has wrote you before sufficient for your Information, and what I have now to say will be only a repetition of the same thing. There is a Ca: Sa:¹ agt Mr J[one]s for 200£ Debt and 100s. damages returnable in the Common Pleas...he was taken thereon last weeke, but those for the Pl[ain]tiff dont know it yet. I have in concert with the ffamily procured his liberty & the whole affair is kept private hitherto, but what is to be done further I know not, for his part he's utterly uncapable to think or act anything towards extricating himself from the difficulties he is under, and the whole dependance is on you ; and your directions are expected. I aske pardon for being so free, and believe you'll forgive me, if I proceed to tell you, what is too visible to all who converse with him. That he is under difficulties is most certain but what they are I know not, he affects great secresie and keeps his affaires from being known by his nearest ffriends, and this has a very unhappy effect

¹ Writ of *capias ad satisfaciendum*.

upon him, it preys upon his spirits and makes him have recourse to such practices as have almost destroy'd his Constitution, and really (without something done to set his mind at Ease, and that he will forbear his present bad practices, I mean drinking) there is no likelyhood of his living, I was going to say not six months. I wou'd not say this much, was it not in hopes of doing good to him and that it may be fit you shou'd know it, and perhaps the ffamily may be tender in mentioning such a thing to you, tho' they are all of the same opinion with me, but none of them know [*sic*] mention any such thing to you. I beg your favourable interpretation of what I have said and that you will give me leave to be,

Sir, your most obedient humble Servant,

ROBT. WELLARD¹.

¹ The unfortunate Mr Jones died in 1737.

CHAPTER V

YOUTH AND EDUCATION

MEANWHILE, a whole period in the life of the younger Philip Yorke had already been traversed, and his mother before her death had seen him raised to the office of Attorney-General.

He entered upon life and upon his profession under exceptionally advantageous conditions. He sprang from a class and from a stock from which many great Englishmen have come. All the circumstances of his birth and of his early associations combined to favour his developement. From the first were instilled in him austerity of morals, untiring industry, perseverance in the face of disappointment and difficulty, calm equanimity of temper, steady and unbending uprightness, clear sense of duty, a strong and simple religious faith and courageous and firm convictions. The child of the Revolution, born almost in the very year of the opening of the new epoch, every influence, both domestic and local, must have impressed him powerfully with hatred of the Stuart administration and its attendant evils.

Among the gentry, the clergy, the lawyers and the merchants of Dover, who had all suffered in their several ways from the late misgovernment and despotic methods, there could have been few to regret the old order of things or represent Tory opinions. Everywhere there must have been a feeling of relief, a sense of new security and new happiness, which had been long absent from English life. The annals of his own family must have impressed all this with increased force on his mind. His grandfather had been one of the leaders of the town in resisting the encroachments of a despotic government upon religious freedom. His father had aided in defending the civil liberties of the borough. He himself, as a child, may have watched from the heights of Dover the flight in frail and open boats of the oppressed and hunted victims of religious persecution, and have witnessed their joyful landing on these happier shores of freedom and security.

Such lessons and such surroundings must have made an exceedingly strong impression on a youth of intelligence and feeling such as we know Philip Yorke to have been ; and these early associations influenced him throughout life and, with his admirable home training, retained their force through all the various and difficult phases of his career.

Favoured in these first and important steps of life, he was no less fortunate in his place of education. This was a large school of some reputation, kept by Samuel Morland, F.R.S., at the Blind Beggars' House at Bethnal Green. Morland was a personal friend of the celebrated Dr Samuel Clarke¹ and a man of great scholastic attainments, and Philip Yorke, who remained under his care till the age of 16, received at his establishment an excellent education. He appears to have attained greatest proficiency in classics, and possessed, at the close of his career at school, a knowledge of the Latin literature and language which was exceptional even in his day, when classics were studied far more thoroughly than at present. His Latin letters, many of which still exist in the rough draft, show him to have acquired great facility in that kind of composition, together with a considerable mastery of idiom and vocabulary and the power of expressing in that somewhat inflexible tongue the incidents and ideas of his own times. The great Greek writers also were studied. In mathematics he had no less a teacher than William Jones, the intimate friend and correspondent of Sir Isaac Newton, and the father of the celebrated Sir William Jones.

In this branch of his education he does not seem to have made the same rapid progress. This appears from a letter written in 1707² by Joseph Hind, a schoolfellow, though the latter declares the reason to have been not that he was incapable of mastering the difficulties of this science but that his mind was intent on higher aims and on preparing himself for a great career of usefulness to his country : "animi tui libera optione qui, sapientissime nugas illas aspernabiles nobis relinquens, altiora spectas ; quae tibi patriaeque tuae imprimis profutura sunt. Deus conatus tuus eventum det felicem." But Philip Yorke repaid the care and attention of his teacher in after years with several substantial marks of his friendship and esteem. He was attended by him when on circuit as Chief Justice, and when Chancellor he bestowed upon him the sinecure office of "secretary of the peace," then worth about £200 a year, which

¹ *Notes and Queries*, Ser. 8, vi. 417; *Annual Register*, vii. 279.

² H. 236, f. 32; and see f. 30. See p. 61.

Jones retained till his death in 1749 and which enabled him to pursue his scientific researches, unburdened with the necessity of teaching¹. But besides these important branches of education, Morland was eminently successful in forming in his pupil, even at the early age of 15, a fine literary taste in English as well as in classical writings, which proved hereafter one of the chief pleasures of life in moments snatched from professional and political labours, and in retirement; and the tone of their correspondence shows that the schoolmaster thoroughly understood the art of stimulating ideas and arousing the intellectual powers of his pupil.

His instruction extended far beyond tuition in school subjects. He discussed with his pupil the events of the day, and moral and philosophical questions. An essay by Philip Yorke, written at this time, at the age of 15, "On a State of Retribution," is remarkable for its logical argument, its deep religious tone as well as its high conception of justice as at once a divine and a human attribute, in which is already suggested the great ideal which afterwards guided and inspired his life. Granted, he writes, that God exists, is uncreated and is perfect "it is natural to conclude that one of these perfections is an impartial Justice, since those Mortals who are possest of it, tho' in much more inferior manner than the Deity can be thought to be, command more true honour and respect from their fellow creatures and make a much more lovely figure than other men." And this divine justice is not conceivable unless in a future life there are retrIBUTions and rewards².

Morland's influence was evidently deeply religious. At the same time it was thoroughly practical and bracing, with the definite aim in his teaching of preparing his pupil for the duties of life. The relations which existed between them were delightful, rather those of father and son than of master and pupil, marked on the side of the elder man by a warm affection and pride in the younger's abilities and on the youth's by a full return of regard and respect and by the fullest confidence. In a Latin letter written by Morland at the time of Philip Yorke's departure from his school at the age of 16 to take up his legal studies, a striking passage occurs in which he congratulates himself on the good fortune of having been the master of a genius, declares the brightest day in his own life to have been that on which he was entrusted to his

¹ *Life of Sir Wm Jones*, by Lord Teignmouth, pp. 96, 98, 99; Nichols, *Lit. Anec.* i. 463 and *Dict. of Nat. Biog.*; a copy of his *Mathematics* (1706) is in the library at Wimpole.

² H. 236, f. 9.

care, recalls his probity of character, his unquenchable thirst for knowledge and the pleasant studies pursued in common, and foretells the future celebrity of his name. With the satisfaction thus expressed is joined a certain note of sadness, arising perhaps from the consciousness of his own powers and of the schoolmaster's fate, which is for ever preparing the road to the great world for others from which he is himself excluded. The boy replied in terms of genuine feeling and affection for his old master. If the latter could thus speak of him, how much more had he himself reason to look back with gratitude at the kindness, care and guidance which he had received¹. Few anticipations of the future fame of genius, so striking and so well authenticated, can be cited. We may gather also from other sources how greatly the young Philip Yorke impressed his contemporaries. "I have had an extra[ordinary] good opinion of the Lord Chan[cellor]," wrote old Isaac Minet, the Huguenot refugee of Dover, some years later in his diary, "since the time he was about 20 years old; by an accident that happened in which he acted and behaved with the prudence of a person of 40 years²." A tone of deference can already also be detected in the letters of his youthful friends and schoolfellows and there are frequent allusions in them to his future greatness.

These included Samuel Palmer³, another pupil who did credit to Morland's school and afterwards entered at Christ Church, and David Papillon⁴, grandson of the famous Thomas Papillon who had played so honourable and distinguished a part in the struggle for liberty during the reigns of the three last Stuarts, and son of Philip Papillon (1660–1736), M.P. for Dover, the friend of the elder Philip Yorke, with whose family there was maintained a long connection of friendship. Another was Sir Thomas Roberts, fifth baronet of Glassenbury in Kent⁵ and godfather to John, Sir Philip Yorke's fourth son. The capacity for forming strong friendships and for keeping them through all the varying and distracting phases of busy public life was always a marked feature in Philip Yorke's character. "I had

¹ H. 236, ff. 14, 16, 26, 76, 152–3. Morland's letters are printed by Harris, i. 14 sqq. See also Add. MSS. 4325, f. 112.

² W. Minet, *Huguenot Family of Minet*, 66. We are given no clue to the nature of this incident.

³ p. 58.

⁴ H. 236, ff. 98, 118, and H. 237, f. 71, and for other letters index to Add. MSS.

⁵ See correspondence, H. 236, ff. 12, 160; Hist. of this family in Hasted's *Kent*; G. E. C. *Complete Baronetage*, i. 152. Martha Roberts, apparently of this family, had married Edward Gibbon, Mrs Elizabeth Yorke's first husband, p. 34.

the singular good fortune," says George Hardinge in his *Memoirs of Sneyd Davies*, "to read a series of letters...written...to a country gentleman, his friend, when he had just commenced his professional career. They are easy, natural and pleasant, relating anecdotes...in the most entertaining manner and apparently well informed in the political circles of the day." He adds, "Nothing is more amiable than such attentions to an absent and rural friend, as calculated for the single object of social benevolence¹".

Samuel Morland, to whom he was so much indebted, disappears early from the correspondence. A few Latin letters between them have alone been preserved. He appears to have kept on the school till 1719 when the schoolhouse was advertised to be let². In 1723 at any rate he was dead. In that year we find Sir Philip Yorke, now Solicitor-General, in gratitude to the memory of his old master and on behalf of his widow, endeavouring to protect his son from the consequences of his extreme misconduct³.

There seems at no time to have been any doubt as to young Philip Yorke's profession nor any hesitation as to the choice of the bar rather than the employment of a solicitor. Probably his striking abilities induced the sacrifice of the succession to his father's already well-established practice as a country attorney for the sake of future and more uncertain renown, for at the age of 15, in 1705, he was already destined for the bar⁴. A letter written by himself, apparently to Lord Chief Justice Holt, of this date⁵, asks for the judge's advice as to the best method of preparing for his future career. He there speaks of himself as one who had been carefully educated for the bar by his friends and whose endeavours had been already favoured by Providence. The alternatives appear to have been "laying the foundation in Institutes, Reports and Statutes," practising as clerk for three years in a solicitor's office, and obtaining familiarity with the practical working of the law, or pursuing his legal studies at a university, or again following the more "generous" way and obtaining a general education preparatory to being called to the bar. The first course was eventually chosen and, as the event showed, wisely. A purely intellectual training and a leisurely life at college would have been

¹ pp. 142-3. Some of these letters are printed by Nichols, *Lit. Illustrations*, iv. 125.

² *The Daily Courant*, March 21, 1719, quoted by Harris, i. 23.

³ H. 236, ff. 286, 288.

⁴ J. Bentham in R. Cooksey's *Essays*, 54. The account contributed by the anonymous correspondent to the same work, pp. 72 sqq., is wholly fabulous.

⁵ H. 236, f. 7.

an insufficient preparation for a profession which entailed then, far more even than at present, unceasing toil and attention to minute and uninteresting details, and might possibly, in Philip Yorke's case, have developed in undue proportion his natural turn of mind towards generalisation. He would have been drawn away from the study of the dull details and "single instances," from the historical developements of English law to that of Roman or comparative law and to pure jurisprudence. He might have written a valuable treatise like his contemporary Montesquieu on the Spirit of the Laws or possibly, by his study of legal principles, have discovered a basis on which to found a codification of the laws of England. But he would not have been the great Judge and Chancellor. For a brilliant jurist was not competent to fill the judicial office unless he possessed as well an intimate acquaintance with the peculiarities and technicalities of English law and custom and some practical experience of their working. The training therefore which the young Philip Yorke obtained during the years spent in the office of a solicitor was, though irksome and laborious, of great utility to him in his future career: in particular, his knowledge thus gained of the working of the complicated system of land tenure in England proved of great value when he afterwards came to preside over the Court of Chancery and to lay down principles governing property in landed estates, while his personal experience of the methods of solicitors must have been of advantage when he was called upon to reform the abuses which had crept into their legal practice. More generally speaking, this practical training at the outset of his career may have corrected some natural tendency towards unsubstantial theory and hasty generalisation, inherent in a young mind of originality and genius, and have produced that perfect balance between innovation and respect for precedent which was afterwards so remarkable a characteristic of his decrees.

After careful inquiry by his father and relations¹, Charles Salkeld, a well-known solicitor in London in large practice, clerk of the papers of the King's Bench and brother of Sergeant William Salkeld, a famous barrister of the day and the author of the *Reports*, of which the first volume was in after years edited by Philip Yorke himself, was chosen for his law-tutor, with whom he resided at his house in Brook Street, near Holborn Bars, from

¹ p. 40; Philip Yorke the elder to John Mellor, II. 11, ff. 6, 9; R. Cooksey's *Essays*, 54.

the age of 16 till sometime shortly before his call to the bar in November 1715, when he removed to his own chambers. Such an arrangement appears to have been then a not unusual one for students preparing for the higher branch of the profession, and Philip Yorke found at Salkeld's several young men reading like himself for the bar, of whom three at least besides himself, Robert Jocelyn, Thomas Parker and John Strange, rose to the highest offices. All these remained intimate friends of Philip Yorke to the last and owed much of their advancement to his steady and kindly support of their interests.

Robert Jocelyn (*c.* 1688–1756), described by Lord Chesterfield as “a man of great worth,” like Philip Yorke in England, filled all the high offices of the law in Ireland successively, being called to the Irish bar in 1706, made Solicitor-General in 1727, Attorney-General 1730 and Lord Chancellor of Ireland in 1739, through the influence of Lord Hardwicke. In 1743 he received the title of Baron Newport, and of Viscount Jocelyn in 1755¹.

Thomas Parker (*c.* 1695–1784), a relation of Lord Chancellor Macclesfield, through whom perhaps the friendship between the Chancellor and young Philip Yorke originated² which is said to have had so much influence upon the career of the latter, was admitted into the Middle Temple in 1718, was called to the bar in 1724 and made serjeant at law in 1736. In 1738 he was “sworn before his great patron and friend Lord Chancellor Hardwicke,” Baron of the Exchequer, removed to the Common Pleas in 1740, and was knighted and made Chief Baron of the Exchequer in 1742, where he remained for the remainder of his legal career³.

John Strange (1696–1754), the author of the well-known *Reports* in which he was assisted by Sir Philip Yorke, who contributed to the work several of his own early legal arguments, was admitted a member of the Middle Temple in 1712, was called to the bar in 1718, was counsel for Lord Macclesfield and K.C. in 1736 and Solicitor-General in 1737. The following year, on the death of Sir Joseph Jekyll, he was offered the Mastership of the

¹ O'Flanagan's *Lives of Lord Chancellors of Ireland*, ii. 74–99. For their correspondence see Index, Add. MSS. and esp. II. 236, f. 64, where a letter from P. Y., 1708, has cured a fit of the spleen, and ff. 155–6, 223, 229, 246, 274 etc., and the whole correspondence between them in 1721; also his letter September 5, 1739, on becoming Lord Chancellor of Ireland.

² H. 236, f. 206, where Lord Ch. Parker asks Sir P. Y. that T. Parker may succeed Salkeld as clerk of patents “not pressing you to anything but just what you think is most fit for you to do.”

³ *Dict. of Nat. Biog.*; *Gent. Mag.* lv. 77.

Rolls by Lord Hardwicke but declined it, accepting the Recordership of London in 1739 and being knighted in 1740. He appears to have voted against Walpole on the Indemnity Bill and in 1742 retired from all his offices. At length, in 1750, he returned to judicial work and accepted from the Chancellor the Mastership of the Rolls which he had twelve years before refused¹.

Meanwhile, Philip Yorke was prosecuting his legal studies and attending the courts assiduously, of which evidence still remains in the collection of note-books and of rules, opinions, cases and treatises transcribed in his hand². Writing to his school friend, Sir Thomas Roberts, he speaks of the "crabbed barbarous study, that has the greatest tendency to make a man unmannerly. For its notions are so bulky and ill-shapen that when they once enter the brain they jostle out everything else"³. Nevertheless, as he wrote to his uncle, the rector of Ripple, he was content with no half knowledge of the law, but his desire was to master it and acquire in time fame and distinction⁴. From henceforth all purely literary and intellectual pursuits had to give way to the study of the law in all its branches and could only be followed in moments of rare leisure. Leaving out of account some Latin verses, a few occasional lines of no great merit, and a few essays on moral subjects written for his sons, no purely literary production, with one exception, from his pen exists. He was, however, on one occasion, April 28, 1712, the contributor to the *Spectator* of an essay, No. 364, on the subject of "Travel of Youths abroad," signed "Philip Homebred." The paper is written in the Addisonian manner, but has little originality and nothing characteristic of the writer's thought and style, and has with justice been pronounced by Dr Johnson as "quite vulgar" and as containing "nothing luminous"⁵. Lord Hardwicke, however, undoubtedly owed much of his success, both in law and in public business, to his excellent

¹ *Dict. of Nat. Biog.*

² II. 587, 639-46, 677-9.

³ II. 236, f. 160.

⁴ II. 236, f. 147.

⁵ It has, however, apparently been the model of Lord Eldon's Oxford English Prize Essay of 1771 on the same subject, when the same "dreadful consequences...of early travel" in which "the young traveller is deceived by every delusive example" are again emphasized, and further, the "ill-directed labour...employed in attempts to acquire the niceties of foreign pronunciation" is disapproved. *Oxford English Prize Essays* (1836); Boswell's *Johnson*, ii. (Croker), 505. The original essay differs in some details from the later editions (II. Morley's *Spectator*, 533). It "was reprinted in Lloyd's *Evening Post* on Monday in honour of the illustrious author," i.e., on his death. (Birch to the second Lord H., March 14, 1764, II. 52, f. 151.) According to the same writer, Lord H. was also the writer of another paper in the *Spectator*, but which one his son could not remember.

literary education, and his own speeches, decrees and letters, as well as the King's Speeches, a whole series of which, extending over a quarter of a century, were written by him, have the dignity, simplicity and precision of language which are only to be acquired by a sound literary education and extensive and wise reading.

While thus intellectually equipped for his career, Philip Yorke entered his profession with some material advantages denied to many other young barristers.

There is no foundation whatever for the legend which would represent him as a kind of legal Dick Whittington, as the "son of a peasant," beginning life in needy circumstances, unknown and unaided, struggling against adversity, and then rising to the highest eminence, like the famous Lord Mayor of London, almost by a miracle! A strange comparison was sometimes drawn between his career and that of Lord Mansfield. Dr Johnson is supposed to have asked what could be the inducement to write the life of the latter. "Born of a noble family, reared with a costly education, and entering the world with all Scotland at his heels, what is there to wonder at in his elevation? If his nurse had foretold it you wouldn't have taken her for a witch. No, sir. If I were to write the life of an English lawyer it should be the life of Lord Hardwicke, a son of the earth, with no education but what he gave himself, no friends but of his own making: who still lived to preside in the highest Court of the Kingdom with more authority, in the Cabinet with more weight, and in the Senate with more dignity, than any man who had gone before him. His was indeed an elevation to be wondered at. If his nurse had dared to foretell of him that he would rise to such a height, sir, she'd have swum for it."¹ Another account attributes this speech, almost in identical language, but still more absurdly, to Lord Mansfield himself². If a comparison is to be drawn, the advantage in entering his profession lay decidedly on the side of Philip Yorke.

¹ There is consequently no basis for the silly stories invented by Richard Cooksey's anonymous correspondent and copied by almost every biographer of Lord Hardwicke.

² C. Russell, *Swallowfield and its Owners*, 260, from notes by Sir Hy Russell. The anecdote is the more extraordinary as Sir H.'s own ancestors, the Russells at Dover, were hereditary friends and connections of the Yorkes in the early part of the eighteenth century and his own grandfather Michael, as well as his great-grandfather, had managed Philip Yorke's property at Dover and knew perfectly the amount of his means and his birth and connections. We may be permitted to doubt the accuracy of the whole anecdote. Is it likely that Dr Johnson would have included Scottish birth in his enumeration of Lord Mansfield's advantages?

³ *Strictures on Eminent Lawyers* (1790), 29.

The younger son of a poverty-stricken Jacobite Scottish peer had many obstacles and prejudices to overcome before he could command success in England, where the whole nation was intensely unpopular and the whole party proscribed and deprived of all power or influence. Lord Lovat's sarcastic reference to Murray in Westminster Hall, when he claimed him as a kinsman, "I wish that his being born in the North may not hinder him from the preferment that his merit and learning deserve," is well known¹, and on one occasion, at least, Murray was protected by his great contemporary from the hostility arising from such prejudices². Lord Mansfield, in fact, equally with Lord Hardwicke, owed his elevation to his own brilliant talents, and much less to his family connections, which must have been an embarrassment rather than a source of support or assistance.

Without having claims by kinship upon the great governing families of the time, Philip Yorke could count on the support of many substantial and influential persons through his own connections in Kent and Dover. One of these was Philip Papillon of Acrise, son of Thomas Papillon already mentioned, whose assistance now he was afterwards able to repay by services to his son and grandson³. At the bar itself he had several kinsmen. John Mellor of Erthig, master in Chancery, whose sister and heiress had married his uncle, Simon Yorke, assisted him in more than one way at this period of his career⁴. So, according to a family tradition, did John Brydges of Gray's Inn, another relation; while his chambers in Pump Court at the Middle Temple, where he appears to have first taken up his residence in 1713, were shared by a cousin, Herbert Jacob, a member of the Inner Temple, of St Stephen's, Canterbury⁵. Other advantages were his close connection with the lower branch of the profession through his father, and the patronage that no doubt came from Salkeld's office.

He entered the bar also sufficiently supplied with means and appears never to have felt the want of money. At the same time his income was not large enough to render his professional career a matter of secondary importance in life. His uncle, the rector of Ripple, had handed over estates in Kent to the elder Philip

¹ *State Trials*, xviii. 827.

² See chap. xx., where he is charged with drinking the Pretender's health.

³ A. F. W. Papillon, *Life of Th. Papillon*, 98.

⁴ p. 26. ⁵ H. 11, ff. 12, 14.

Yorke in trust for his son "for the better advancement and preferment of his said nephew" on the latter's coming of age in 1711, and these same lands descended intact to his remote descendants¹.

To these aids to success were now to be added almost unrivalled powers of intellect, joined to a prodigious capacity for work and to the incalculable advantages of a natural disinclination to vice, as well as of studious and regular habits already thoroughly established and never to be departed from throughout life. By these means alone, a physical constitution, not of the most robust, proved equal to the enormous calls continually made upon it. Nor did Fortune's gifts stop here. He possessed the most consummate tact, and a natural kindness of disposition and an agreeable good humour which passed unspoilt and undisturbed through all the disappointments and petty irritations of public life, the charm of which was moreover enhanced by good looks.

Gratior et pulchro veniens in corpore virtus.

CORRESPONDENCE

Philip Yorke to Samuel Palmer²

[H. 236, f. 141.]

[1712.]

DEAR SIR,

...Upon my coming to Town I found our two old parties distinguish'd by new titles; peace and war got into the place of Whig and Tory. A man was as certainly fix'd to be of this or that division by his opinion of the new preliminaries and the partition of the Spanish monarchy, as if he had declar'd himself upon the long contested points of passive obedience and Church Government³. This humour continues and the same interests and designs are still carried on under [a] change of name with such a degree of heat and animosity, as wou'd tempt any man to think that, however we may differ in our sentiments about prosecuting the war abroad, we are agreed on all hands to foment one at home at any expense. Possibly this may be thought too severe a censure, but sure I am it can't be denied me that nothing can be

¹ H. 880, f. 20; see above, p. 24.

² p. 51.

³ The letter refers to events consequent upon the fall of the Whigs and the succession to office of Oxford, Bolingbroke, and the Tories who had just concluded the preliminaries of the Peace of Utrecht, on September 27, 1711.

a more flagrant instance of the unconscionable power of faction amongst us than to see two sets of men, some of which on both sides were allowed to understand their Country's interest and pursue it too, when it did not stand in the way of party designs—to see these, I say, divide exactly to a man according to their several denominations upon a general question, that is of the last consequence, not only to this nation but to all Europe, and does not come under the particular consideration either of Whig or Tory. Such a height of folly are we arriv'd at that we try persons, not causes, and oppose opinions out of hatred to the men that espouse them, not the men out of dislike to their opinions, and this in the plainest cases....

For my own part it is with very great difficulty that I can be brought to entertain a prejudice against anything that bears the name of so desirable a blessing as peace. I am sensible it is what the nation wants and wishes for; but I can't help being out of humour with those that would facilitate our way to it, by endeavouring to persuade us that to put Spain and the West Indies into the possession of the Emperor is equally dangerous with giving them to the House of Bourbon....Now, let any unprejudiced man consider the House of Austria in its highest pitch of grandeur, when all its dominions were united in the person of Charles 5th, and he will find that great and wise Prince, with all those advantages, was but barely a match for France; and it was always in the power of our King Henry the 8th to weigh down the scales against him with indisputable advantage. And if this were then the case, certainly 'tis the most malicious ignorant invention, that ever was palmed upon a people, to pretend at this time of day that it would be full as ruinous to the affairs of Europe to see Spain and the West Indies in the Emperor's hands, as those of France. For the power of the House of Austria has been greatly retracted in the Empire. France has obtained augmentations from them since that reign. Burgundy and Rousillon, with the places on the Spanish frontier, part of Flanders and a large tract of country, with many strong fortresses along the Rhine, are her conquests. Spain is greatly dispeopled, and her maritime power, in which she once excelled all the other nations, wholly lost and 7 of the 9 provinces are now become independent and grown up into a high and mighty state, the 4th potentate in Christendom. This is an alteration of such weight in the balance of Europe and such a curb in the mouth of the House of Austria, if ever there should be any just

apprehension of its power, as must be an eternal answer to this groundless surmise.

Another exception which I have taken against the writers employ'd to recommend this negociation of peace to the nation is, that all of them, even those who have the greatest countenance of authority, introduce their discourses on this subject with burlesques upon our alliances and declarations against our Allies....Is it not highly probable that it may be afterwards remembered to our disadvantage, and give the Allies continual jealousies of our firmness?...

[He then discusses at some length the recent action of the House of Lords in refusing to allow certain Scotch lords to take their seats, who, together with others, amounting in all to 12, had been created peers of Great Britain in order to give the Government a majority in the Upper House of Parliament. The question raised was whether Scottish peers, created peers of Great Britain, obtained thereby seats in the Lords, the new honour, since they were already peers, not being a new peerage but only a new title.]

The passing of the act against Occasional Conformity¹, tho' under a new title, has been matter of great surprize amongst us, and no doubt of mighty joy amongst you². The refiners pretend here that the Whigs came to terms with Lord Nottingham and his followers that they would join with him in carrying his favourite bill, his heart's desire, if he would join with them in pulling down and impeaching my Lord Treasurer [Oxford], which, they tell us, will be the consequence, when proper opportunity offers. Others say that the Low Churchmen suffer'd this to pass so tamely in order to prevent something worse which they fore-saw hatching in another place. But whatever the secret springs and motives of this conduct may be, it certainly seems a very odd step, and the Tories take advantage from hence to represent the ruin'd party as betraying the trust the Dissenters had repos'd in them and leaving their old friends in the lurch. As to the generai reason and foundation of this law, I must own my thoughts differ from some people I converse with. I think no

¹ This was a practice which had arisen owing to the Test Act and other acts disqualifying Dissenters and Roman Catholics from office, and which consisted in taking the Sacrament according to the rites of the English Church on the prescribed occasions. An Act was now (1711) passed through Parliament by the High Church Tories and with the acquiescence of the Whigs, who paid this price for Lord Nottingham's support, to suppress the practice.

² His correspondent was a member of Christ Church, Oxford, which university was notorious for its high-church and Tory principles.

subject can be a magistrate by birthright, but the fixing of qualifications for places of trust is a thing so entirely lodg'd with the Legislature that, without giving any reason for it, upon any apprehension of danger, how remote soever, every Government may put such rules and restraints and conditions on officers as they shall think fit; but that which sticks with me is (and I think it a very grievous hardship) that this Act leaves the Dissenters subject to penalties if they do not accept of and execute offices when legally appointed thereto, and at the same time restrains them (if they do accept of them) upon great penalties from doing what they think themselves obliged to in conscience¹. Whether this be consistent with a toleration, or not rather persecution for conscience sake, I submit to you....

Since my return out of the Country, I was so unfortunate as to hear that poor Jo. Hind² died at the middle of last summer of the small-pox, at Utrecht. A youth of extraordinary hopes, and lamented by his father as an irreparable loss³....

¹ This had been the case of his own father, p. 30.

² p. 49.

³ In a letter of December 22, 1716, he describes to an unnamed correspondent the state of politics consequent upon Lord Townshend's resignation, H. 236, f. 163; further correspondence, ff. 15, 192.

CHAPTER VI

BARRISTER

PHILIP YORKE was admitted into the Middle Temple on November 29, 1708, the entry in the books of the society being as follows :

Novembris 29^{mo} 1708

Mr Philippus Yorke, filius et haeres apparenſ Philippi Yorke, de villa et port de Dover, in Com. Kent, gent, admissus est in societatem Medii Templi ſpecialiter et obligatur una cum et dat pro fine £4:0^s:0^d¹.

According to Harris, his ſureties were his kinsmen Sir Thomas Roberts of Glassenbury and Thomas Bridges². It was not, however, till May 27, 1715, that he was called to the bar in the same ſociety¹.

After seven years of hard work and diligent application, of arduous reading in the law, transcribing of legal treatiſes, and of assiduous attendance at the Courts, where he took notes of cases, he had now become an able and learned lawyer. Success appears to have been ensured from the very first. He obtained briefs immediately after his entrance to the bar, both in Chancery and in Common Law business, and was employed a few months only after his call in Crown cases³. In November 1715, he was counsel for the Crown in the prosecution of John Gordon, John Dorrell and others, who had raised the Jacobite standard of revolt at Oxford and Bath⁴. A long and elaborate argument in *Hollidge v. Hungerford*, 3 George I, which obtained a verdict for his clients in the King's Bench, turned upon the validity of a bylaw, made by the common council of Bristol⁵. But by far the most important and

¹ Middle Temple Records.

² *Life of H.* i. 34.

³ H. 642, f. 143 b, H. 643, ff. 12, 14, 183 b, and 187 and *passim*, and H. 827, 848, where can be found several of his arguments before the courts during the first, second and third years of George I; see also cases in Strange, i. 87-157, contributed by himself; and Leach, *Modern*, x. xi. *passim*.

⁴ H. 538, ff. 1 sqq. The indictment is drawn up by him.

⁵ H. 644, ff. 6-12.

interesting of the arguments delivered by Philip Yorke at this period and extant is that in *Rex v. Hare and Mann* in Chancery, before Parker, now Lord Chancellor, and Sir Joseph Jekyll, Master of the Rolls (5 George I)¹. The point in dispute was a technical one, touching the wording of a writ, Philip Yorke contending that in consequence of the Act of Union with Scotland the Chancery, formerly of England, had become the Chancery of Great Britain and consequently that the writ should be returnable *in Cancellaria ubicunque tunc foret in Anglia* and not merely *ubicunque tunc foret*. The point is well and learnedly debated with great precision and clearness, the argument being divided into the two general headings of "reason" and "precedent," and including the statement of a theory concerning the nature and origin of the Chancellor's equity jurisdiction, which has since been commonly cited and accepted². Judgment went against him, but his speech probably attracted a good deal of notice and attention and perhaps in high quarters, for Sir Robert Walpole was a party interested in the case. His extraordinarily rapid progress and success, it is said, now began to excite jealousy.

Serjeant Pengelly, a bencher of the Inner Temple, Philip Yorke's senior by 15 years, and a man of great ability and of high standing at the bar, was at that time considered the *beau idéal* of what a lawyer should be and the standard at which every aspiring young barrister should aim. It was said that this great man's ambitions were thwarted by the young Philip Yorke's success. Charges of injustice and favouritism were freely circulated. The Lord Chancellor, especially, it was affirmed, showed the most unfair partiality to the young lawyer. In one case before him in which both Serjeant Pengelly and Philip Yorke were briefed—so it is related—the judge having observed that "Mr Yorke's arguments had not been answered," the elder barrister declared "he would not plead in a Court where Mr Yorke was not *to be* answered," and, throwing down his brief, quitted the court in a passion. It was the same Serjeant Pengelly who, a few years later, was one of the most inveterate and persistent of the accusers of the impeached and disgraced Chancellor³.

¹ II. 644, f. 124; Strange, i. 146-157.

² See below, chap. xxvi., where he alludes to this argument in his letter of June 30, 1759, to Lord Kames.

³ Below, p. 87; Cooksey's *Essays*, Anon. Corresp. Thomas Pengelly (1675-1730), serjeant 1710, chief baron of the Exchequer and knighted 1726. He died of gaol fever in 1730.

These accusations of favouritism, however natural at the time, have been given a somewhat excessive prominence by later writers, who have repeated the misrepresentations of disappointed ambition and petty malice as if they were genuine facts, related by impartial witnesses.

According to the elder Jeremy Bentham, a contemporary and a solicitor who practised in his Court, who contributed a paper to Richard Cooksey's collection, containing some interesting details of Lord Hardwicke's early career, it was through Lord Macclesfield's son, then a student in the Temple, that Philip Yorke made the acquaintance of the Chancellor. This youth, however, was seven years Philip Yorke's junior, and it is much more probable that the introduction was made through Thomas Parker, afterwards Chief Baron of the Exchequer, his fellow-student at Salkeld's and a relation of Lord Macclesfield's. The acquaintance was no doubt of great service to the young barrister at the opening of his legal career. Lord Macclesfield, according to the same authority, "took every occasion that offered to distinguish Mr Yorke as his particular favourite, as well when he presided in the Court of King's Bench as afterwards in the Court of Chancery¹." But the statement that Lord Macclesfield's favour went so far as to influence his decisions is an absurd exaggeration, while the assertion that Philip Yorke practised only in the court of his patron, where he profited unduly by the partiality shown to him, and that he followed him from the King's Bench to the Court of Chancery, quitting all his business in the Common Law Courts, is proved false by even a casual reference to the printed law reports and to his briefs in manuscript². He owed, without any doubt, his exceptional success principally to his own great abilities and to his capacity for arduous and long-sustained labour, without which no patronage or favour, however influential, would have alone sufficed to secure advancement; though, no doubt, he was indebted to the support of friends, among whom were now included the Chancellor and the Master of the Rolls, whose niece he was soon to marry, for some of his early good fortune. This was now the subject of general comment³.

"Mr Yorke," writes Bentham, "by means of his own merit and the countenance he was known to have from the Court, made so rapid a progress in his profession that he had soon as much

¹ Jeremy Bentham in Cooksey's *Essays*, 55.

² See, as above, Strange, 86 sqq., where he appears to have been engaged in nearly all the chief cases in the K. B. after Lord M. had left for the Court of Chancery.

³ Jeremy Bentham in Cooksey's *Essays*, 55.

business as he could well go through with ; which gave occasion to Judge Powis to make him a compliment that in the manner it was made, terminated more to Mr Yorke's credit, as a young man of ready wit than to the Judge's good sense. The affair was this—Mr Justice Powis, who had been trying causes at some one of the assizes in the circuit he went, being at dinner and several of the counsel with him amongst whom was Mr Yorke, took occasion to make Mr Yorke some compliment by telling him he could not but be greatly surprized at his having acquired so great a share of business for so young a man ; and said to him, ‘Mr Yorke, I cannot well account for your having so much business, considering how short a time you have been at the Bar. I humbly conceive’ (continued the Judge), ‘you must have published some book, or are about publishing something ; for look you, do you see, there is scarcely a cause before the Court but you are employed in it on one side or the other. I should therefore be glad to know, Mr Yorke, whether this is the case.’ Such a curious way of accounting for Mr Yorke's run of business could not but force a smile from him ; and it determined him to make the Judge such a reply as might put an end to so fulsome a compliment. He therefore told the Judge, he had indeed some thoughts of publishing a book, but that he had made no progress in it as yet ; at which the Judge pleasing himself for having made so happy a discovery, became importunate with Mr Yorke to let him know the subject of his book ; which put him upon telling the Judge that he had thoughts of publishing Cook upon Littleton in verse, but that he had gone but a very little way in it. This however tickled the Judge's curiosity still more ; and telling Mr Yorke that it was something so new and must be so entertaining, he begged him to oblige him with the recital of a few of the verses, when Mr Yorke, finding the Judge would not drop the subject bethought himself he could not get rid of it better than by giving, by way of a specimen, something in the Judge's own words and introducing the phrases he himself was in the habit of making use of upon all occasions, let the subject be what it would. Therefore accompanying what he intended to say with some excuses for complying with the Judge's request, Mr Yorke began with reciting, as he pretended, the following verses ; viz.:

He that holdeth his lands in fee
Need neither to quake nor to shiver ;
I humbly conceive, for look, do you see,
They are his and his heirs for ever.

Such a specimen as this, it may easily be conceived, was enough to satisfy the Judge¹; but however that might be, the rest of the

¹ Sir Littleton Powys, ridiculed by the Duke of Wharton in the lines :

“When Powis sums a cause without a blunder

company could not but be under some difficulty to refrain from laughter; and it serves at least to prove that Mr Yorke had a ready wit and a good deal of pleasantry about him¹.

Such a specimen as this may not appear an example of very striking wit, but there can be little doubt that the young barrister's good humour, together with his conversational and social talents, did much to smooth the steep path of progress before him.

At the same time that he was thus rapidly advancing at the bar, he received an appointment, on October 3, 1718², which must have been especially gratifying to his feelings, that of Recorder or Steward to his native town of Dover, the duties of which consisted in presiding over the sessions as assistant to the mayor and jurats. This, his first judicial appointment, he retained till the day of his death, when he was succeeded in the office by his second son Charles Yorke. In a few years the business of his great offices entirely engrossed his attention, and the post became a purely honorary one³, the duties of which were performed by deputy; but it maintained a link with the past and with the town to which he ever looked back with pleasant and affectionate memories.

The year before he had been the author of a pamphlet on the important subject "Of Pardons in Cases of Impeachments," which, although it is not so entitled, seems to be a reply to the tract on the same topic, written by Lord Nottingham, "On the King's Power of Granting Pardons in Cases of Impeachment," which upheld the absolute right of the Crown, and a MS. copy of which is among Philip Yorke's papers⁴.

Lord Nottingham's pamphlet remained unprinted till 1791, nor was that of Philip Yorke ever published, but according to the custom of the time it probably circulated in manuscript among the

Then will I cease my Celia to adore
And think of love and politics no more."

See Foss's *Judges*, viii. 52, who calls him "a good plodding judge" with certain defects, and "moderate" intellectual powers. His brother, Sir Thomas, was the servile Attorney of James II, described by Macaulay as scarcely of third-rate ability.

¹ The anecdote is related somewhat differently from another source in *Notes and Queries*, 2nd series, v. 129. Another skit on the same judge, Sir Littleton Powys's Charge [to the Grand Jury] in rhyme, 1718, is among Lord Hardwicke's papers (H. 922, f. 7), partly printed by Harris, i. 84.

² Records at Dover, Minutes of Assemblies.

³ H. 344, ff. 223-44. A payment of £4 to him in this capacity occurs in the Dover Records only for the years 1719 and 1721. There is no mention of any visit paid by him to Dover after the death of his mother in 1727, and the entries of sums paid to "the Recorder" or "the Steward" in subsequent years refer presumably to his deputy, John Knowler.

⁴ See copy in Brit. Mus. and Watt's *Bibl. Brit.* 712 E, under "Pardons."

members of the bar. It supported the view generally accepted since the Revolution and denied the royal prerogative. The King's pardon, he argued, could only operate so far as the offence was an injury to himself¹, and therefore in such impeachments, as were at the suit and complaint of the Commons, it could not avail. No instance of such a prerogative could be found except that in the case of Danby, when the King's pardon "passed the Seal in such an unprecedented manner as showed that the authors of it were conscious it was illegal." On the other hand an appeal to precedents proved that there were several instances of pardons granted by authority of Parliament to persons impeached².

His reputation soon spread beyond the bar, and abilities and qualities, other than those strictly professional, now attracted the notice of the ministers, who at this time especially required men of weight and character, as well as of talent, to support them in the House of Commons, not only against the Tories but against the factions in their own party.

About this time began that friendship and lifelong intimacy with Thomas Pelham Holles, Duke of Newcastle, which had so great an influence on the careers of both. Through the Pelham interest Philip Yorke now, on April 21, 1719, entered Parliament as one of the representatives of the borough of Lewes in Sussex, to which town we find him, together with William Gage, his parliamentary colleague, presenting bells and a clock the next year³, a constituency which he exchanged on March 20, 1722, for that of Seaford, another of the Pelham boroughs.

He made his first recorded speech in Parliament on March 4, 1720. A conflict had arisen between the English House of Lords and that in Ireland as to final jurisdiction and a bill (6 George I, c. 5), which received his support and that of the judges, was now passed which denied the appellate jurisdiction of the Irish Peers and asserted the supremacy of the British House of Lords. There were indeed some precedents which showed that the Irish Lords had entertained such appeals. But appeals from the Irish Court of Chancery to the British House of Lords were already customary and were more in accordance with proper legal procedure and the aims of justice than appeals to a Court, such as the Irish Upper House, where judicial decisions were often at the mercy of political

¹ This would presumably cover cases of rebellion and the pardons, for instance, of the rebel lords in 1715.

² H. 741.

³ H. 236, ff. 249, 293, 314. His share of the expense was £100. 13*s.* 9*d.*

factions and where, owing to the infrequency and irregularity of the sittings, a denial of justice must often have occurred. The new Act, moreover, declared once more the settled principle of the "dependency of the Kingdom of Ireland upon the Crown of Great Britain," which had prevailed since the great Poynings' Act of Henry VII and which had established the relations between the predominate and the less powerful partner¹.

We must now relate the young barrister's good fortune in another sphere, that of matrimony. Margaret Lygon, the object of his affections, was the widow of William Lygon, the heir of Madresfield, who had died almost immediately after the marriage², and by birth Margaret Cocks. She belonged to an old and respectable family of country gentlemen of Castleditch in Herefordshire which, it is said, had held landed property in Kent from the reign of Edward I³. She was a woman of sound sense with valuable domestic qualities and a strong personality, while the affection with which she was regarded by her children and by her friends testifies to her amiable character. She proved a devoted wife and brought up a large family of sons and daughters with great wisdom and extraordinary success. A long married life of great happiness, undisturbed by even the breath of scandal, and scarcely interrupted till its close by a single domestic loss or calamity, of which the full stream of prosperity widened every succeeding year as their children grew up to maturity and provided their parents with fresh cause of satisfaction, was now in store for the fortunate young couple, and to his marriage the Chancellor owed much, not only of his happy home life, but something even perhaps of his success in public affairs.

According to the marriage settlement of 1718 certain lands at Dover and in the neighbourhood, inherited from the elder Simon Yorke and the Gibbon family, were vested in his parents for their life, afterwards in himself and his wife, and afterwards in their children, he himself adding a further £800 and the trustees being directed to secure additional property bringing in £300 a year, while the elder Philip Yorke was allowed to charge the property with £2000. Mrs Yorke brought into the trust the sum of £6000⁴.

This marriage, which took place in May 1719, was the first

¹ *Statutes at Large*, xiv. 204; *Parl. Hist.* vii. 643; Hallam, chap. xviii.; Lecky, ii. 418, where the historian seems to take a too local and Irish view of this Bill.

² Burke's *Peerage* under Beauchamp.

³ Burke's *Peerage*; Collins, *Peerage*, Supplement, 397.

⁴ II. 880, f. 148.

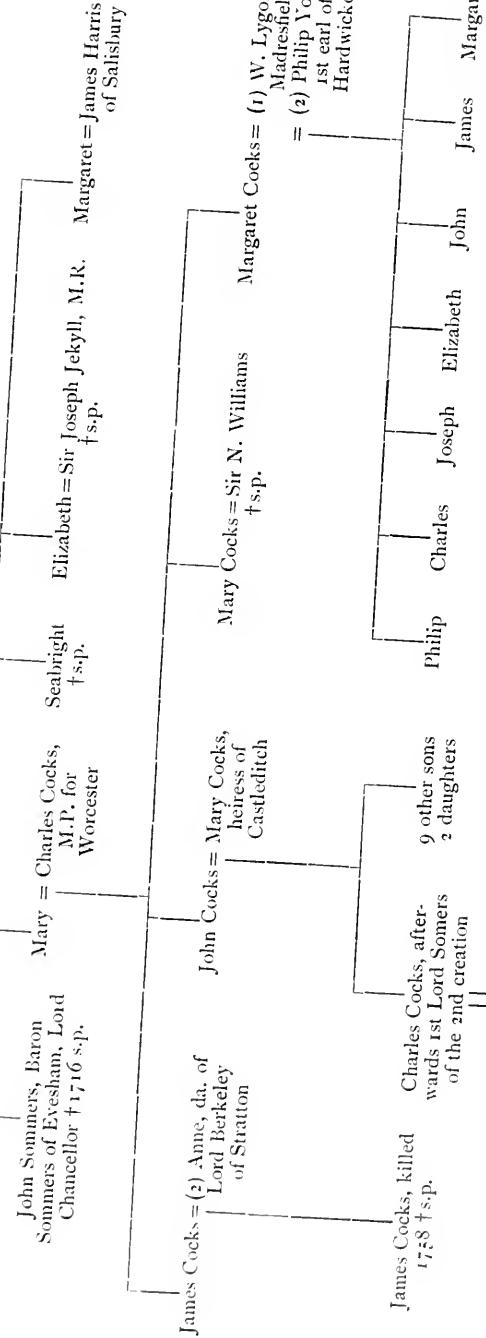
MARRIAGE

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John Sommers of Whiteladies = Margaret Buller.¹

Richard Sommers = Joyce Child

John Sommers = Catherine Severn



¹ Cooksey's *Essays*; Burke's *Praeg.*

connection between the two families of Yorke and Cocks, which had subsequently considerable influence on both. It moreover created a link between the two great Chancellors, Lord Somers and Lord Hardwicke. Charles Cocks, M.P. for Worcester and Droitwich, the father of Mrs Philip Yorke, had married Mary Somers, the eldest sister and representative of Lord Somers, who himself had died unmarried, leaving neither children nor brothers.

Lord Hardwicke carried on the torch of freedom and governance left to him by his great predecessor, who breathed his last in 1716 a few months after he himself began his own great career at the bar¹. He had the same veneration for the law and the constitution, and showed the same high courage and calm wisdom in times of national crisis; he had the same capacity for far-reaching and constructive statesmanship, carrying through Parliament by his indomitable will the last great legislative measures for the Union of England and Scotland, of which Lord Somers had laid the foundations. He himself was followed by a son in whose veins ran the blood of both Somers and Hardwicke and whose great natural gifts seemed to combine the brilliant literary genius of the former with the profound judicial acumen and intellectual analysis of the latter, on whom all eyes were fixed expectant of even greater things till he vanished from the scene in the darkness of sudden and overpowering misfortune.

Margaret Cocks brought into her husband's family, besides a moderate fortune², further expectations of a considerable increase, which were, however, disappointed. Her eldest brother James, now the head of the family, by a codicil of 1746 left the bulk of his property, in the event of his only son dying before the age of 21, to be divided between his two sisters, Mrs Philip Yorke and Lady Williams³. The death of the young James Cocks did actually so occur. A pathetic interest is attached to his name. A high-spirited youth, he was fired with enthusiasm for a military career and, refusing to listen to the counsels of prudence offered by the

¹ A Latin epitaph by Lord Hardwicke on Lord Somers, H. 922, f. 5. Lord Hardwicke inherited a portion of Lord Somers's library which appears to have been divided between himself and Sir Joseph Jekyll, Master of the Rolls, who had married Elizabeth, a younger sister of the statesman. See the details of the partition in 1729, H. 768, ff. 173, 190. The library seems to have been valued at £314*s.* 16*s.* 6*d.* and the MSS. at £125*n.* 12*s.* 6*d.*, and Sir P. Y.'s share at £157*s.* 10*s.* 2*d.* A few of Lord Somers's books are still in the library at Wimpole, the more valuable of them having been dispersed. For the destruction of his papers, see below, chap. xxi..

² Her will H. 881, f. 23, where it seems to have amounted to about £20,000.

³ H. 880, ff. 197, 211.

Chancellor and his family, he secured a commission in the Grenadier Guards, and was fatally wounded in the unsuccessful expedition to St Cas in 1758¹. Meanwhile, however, his father, who died in 1750, by a later will had left his estate to his brother, John Cocks², who now marrying his cousin Mary Cocks, the only child and heiress of the elder branch of the family, settled at Castleditch in Herefordshire, became possessed of a very large estate. This, however, he fully needed; for he left ten sons and two daughters, in the person of the eldest of whom, Charles Cocks, the barony of Somers was revived.

Within a year after his marriage, and before he had reached the age of 30, Philip Yorke received the official intimation, the result of an unexpected incident, of his appointment to the office of Solicitor-General in the administration.

¹ See his letters, *passim*, in the MSS. Cf. the ridiculous account of these incidents given by the anonymous correspondent in Cooksey's *Essays*, where the Chancellor is depicted as his murderer.

² H. 880, ff. 197, 211; H. 26, ff. 34, 36, 40, 47.

CHAPTER VII

SOLICITOR-GENERAL

PHILIP YORKE received the tidings of his appointment to office, dated March 23, 1720¹, while engaged on the Western Circuit. A vulgar quarrel had broken out between the two chief legal advisers of the Crown, Sir Nicholas Lechmere and Sir William Thompson, the Attorney- and Solicitor-General. The latter had accused the former in Parliament of unprofessional conduct and corruption, and the charges having been examined and disproved by a committee appointed for the purpose, the discomfited Solicitor had been dismissed from his office.

The appointment to so responsible a post of a young barrister at the early age of 29 with a standing of less than five years at the Bar, the youngest counsel on the Western Circuit², who had not yet even received his promotion to King's Counsel or Serjeant, over the heads of several lawyers of experience and ability no doubt greatly increased the jealousies which had already been aroused by his exceptionally rapid progress and success³.

But his unfailing tact and good humour and complete freedom from self-consciousness speedily overcame all enmity of this kind and he soon became, and remained till his death, one of the most popular members of the Bar.

The office, however, of Solicitor-General was as much a political as a legal one. The administration required not only a legal adviser but a person of character and weight, and of power in debate, to give support in the House of Commons, and no public

¹ *Annual Reg.* (1764), 279; H. 236, f. 188.

² *Annual Reg.* (1764), 279.

³ According to R. Cooksey's anonymous correspondent, whose testimony is generally false and is therefore not quoted in the text, these jealousies were carried so far that an attempt was made by the bar to boycott the young Solicitor.

appointment in the event has ever been more abundantly justified. Shortly after his promotion he received, on June 11, 1720, the honour of knighthood and the following year he was nominated Autumn Reader and Treasurer at the Middle Temple¹.

The moment of his first entrance into office, the burden of which he was destined to support continuously for nearly half a century with scarcely a single day of intermission, was one of great calm. Abroad, the course of public affairs had been marked by a general pacification, owing to the defeat of Alberoni's dangerous schemes, and to the Quadruple Alliance now signed between England, France, Holland and Austria. At home the dangers attending the change of dynasty had been overcome, and the Jacobite rebellion of 1715 had been finally suppressed. Lord Stanhope's and Lord Sunderland's administration had been apparently established for some time to come by the dismissal of Walpole, Townshend and Pulteney, the opposite faction in their party. But this tranquillity was soon disturbed by the collapse of the South Sea Company and other financial concerns with which it was connected, a disaster which immediately caused the entire downfall of Stanhope's cabinet, some members of which had been implicated in the transactions leading to the bankruptcy. The prime minister himself, on February 4, 1721, while replying to a violent attack of the Duke of Wharton in the House of Lords and labouring under great excitement, was seized with a fit of apoplexy and expired the next day. Other members of the government died of small-pox, committed suicide or were impeached and expelled the House. Upon the occasion of this *débâcle* the reins of government were taken up by Walpole who now, in March, 1721, entered upon his long and celebrated administration, which lasted, with one brief and insignificant interruption, for 21 years. His first duty was to devise means for the restoration of public credit and confidence, and in this he was seconded by Sir Philip who, however, showed his independence by sometimes speaking and voting against the government in these debates². Exceptional measures for dealing with the property of the directors, unknown to the law, but the only ones practicable in the circumstances, were sanctioned. At the same time the government, with some courage and prudence, resisted the cries for blind vengeance raised by the multitudes who had been ruined by their crimes or errors.

¹ Middle Temple Records.

² *Parl. Hist.* vii. 684, 693, 695; *Annual Reg.* (1764), 280.

A year or two later he was engaged officially in his first *cause célèbre*. About the year 1720, profiting by the scandal and exposure occasioned by the collapse of the South Sea Company and the consequent loss of reputation by the government, various plots were set on foot by the disaffected in favour of the Pretender¹. In one of these Bishop Atterbury of Rochester was a leading spirit and was sentenced by a Bill of Pains and Penalties to banishment and to the loss of his see in 1723. At the same time two other conspirators, John Plunket and George Kelly, received punishment, Sir Philip Yorke moving for a Bill of Pains and Penalties against the latter in the House of Commons on March 11, 1723².

In another, Christopher Layer was the chief instigator. He was a barrister of the Middle Temple, of indifferent character, who aspired to the Woolsack in the event of a successful Jacobite insurrection. The plan was to seize the Tower and other places in London, obtain possession of the persons of the King and royal family and murder the ministers³.

Sir Philip's speech in the prosecution of this individual, which took place before Lord Chief Justice Pratt on November 21, 1722⁴, has always been one especially admired by lawyers as a fine example of the marshalling of facts and evidence to a precise and definite issue, and it repays perusal even at this distance of time. The guilt of the prisoner was beyond doubt, but according to the famous Treason Act of William III, two witnesses were required to testify to the same overt act of treason, and this restriction gave many opportunities to the defence to obscure the facts and raise technical objections, which were ably dealt with by the prosecution.

Still more striking is the effort throughout this speech to be scrupulously fair to the prisoner, and to avoid exciting the passions and resentment of the jury. "I would not," Sir Philip said in conclusion, "even in this cause of your King and of your country, say anything to excite your passions; I choose rather to appeal to your judgments, and to those I submit the strength and consequence of the evidence you have heard."

Those who are unacquainted with the earlier methods and practice of counsel in Crown prosecutions may deem such expressions scarcely worth recording, and consider them mere commonplaces,

¹ *Parl. Hist.* vii. 982.

² *State Trials*, xvi. 323; *Parl. Hist.* viii. 39, 196, 199, 216 sqq.

³ *Parl. Hist.* viii. 95 sqq.

⁴ *State Trials*, xvi. 93, 263; Leach, *Modern*, viii. 82; *Annual Reg.* (1764), 279.

employed to adorn a formal peroration. They are, however, significant, not only of the feelings and conduct of the speaker but also of the changed character of the times. Hitherto it had been too much the custom in state trials, even with counsel of high standing, who in every other capacity were persons of equity and generosity, to treat the prisoner at the bar as an enemy of the human race, whose destruction must be accomplished by any means; and the judges themselves frequently thought it no derogation of their office to join in the browbeating of the accused.

With the Revolution came gradually, together with greater security to the state, a more lenient disposition towards political foes, who were now less formidable than formerly. Their offences were now judged more calmly and dispassionately, and the sudden panics, which at different times in the national history, had led to acts of violence and to unjust sentences in the Courts of Law, occurred no more.

But it was left to the great lawyer, whose career we have begun to describe, to introduce for the first time into crown prosecutions those milder methods, which, while the evidence against the prisoner was still placed before the Court in its clearest and strongest light, yet still allowed every fair opportunity of defence and even admitted of some feelings of humanity for the accused. "He was by no means what is called a prerogative lawyer," wrote Lord Chesterfield, an antagonist who could not appreciate some other parts of his public career, "he loved the constitution and maintained the just prerogative of the crown but without stretching it to the oppression of the people. He was naturally humane, moderate and decent, and when by his former employment he was obliged to prosecute state criminals, he discharged that duty in a very different manner from most of his predecessors, who were too justly called the blood-hounds of the crown!" Writing in 1725, the poet Thomas Tickell, with whom he was acquainted, declares that he "honours him more for his humanity than others can for his great talents²." His mildness and moderation in this sphere met with universal approval and were once, on a celebrated occasion, the subject of the applause of the House of Commons itself³.

¹ Lord C.'s *Character* of Lord Hardwicke.

² II. 237, f. 27.

³ p. 100. For further cases in which he was employed at this period, 1 Strange, 395, 429, 465, 482; and in MS. II. 645-6, 651-2, 767, 786-91, 827-31, 848, 868-72.

CORRESPONDENCE

John Mellor of Erthig¹ to the Solicitor-General

[II. 11, f. 29.]

ERTHIG, Feb. 27, 1722.

...Indeed the Jacobites in our parts are strangely animated of late & they endeavour to carry their Points by Heat & Fury and they are so bare faced, as to drink the Pretender's health in public Companys. But tho' we have Intimation of it, yet we cannot prevail with any in Company to prove it upon them. It is not long since that the Lord Buckley² came hither out of Anglesea to keep up the Spirit of the Party, and he and Mr Watkin Williams³ audaciously burnt the King's picture & the several Pictures of all the Royal Family; and the Clergyman at whose House it was done is so far from being ashamed of it, That he & his Wife have several times since owned it. I wish we may have a good Parliament, for if otherwise, I fear we shall be all in confusion....

[II. 11, f. 46.]

ERTHIG, Jan. 10, 1723.

SIR,

...I was in hopes we should have sent up a loyal address from this Country. It was voted at the last Midsummer Quarter Sessions & strongly opposed by Mr Watkin Williams & 5 others who went so far as to protest against it, & said openly in court that the Plot⁴ was only an Artifice of the ministry to gain a 4^s aid. But notwithstanding all their struggles we then carry'd it by ten against six;...& an address was accordingly drawn up & approved: But upon Mr Myddleton's⁵ coming down, He so warmly opposed it among his Friends that it was thought advisable to let it drop rather than have a public Denial given to it. I am sorry to give this account of a Person whose Interest I espoused with so much charge and difficulty; & who before the Election gave me so strong assurances of his Loyalty; But as the public Interest is what I have most at heart, I cannot so much think of skreening any Friend that shall (upon Principles) turn against the Government. I hope this is not his Case. I am willing to believe he hath been drawn into this Error by the Sly Insinuations of some

¹ p. 25.

² Richard, fourth Viscount Bulkeley in the peerage of Ireland (1682-1724), M.P. for Anglesey.

³ Afterwards known as the "Great Sir Watkin" (1692-1749) and deeply implicated in the Jacobite rebellion of 1745 (see chap. xiv.); succeeded his kinsman Sir John Wynn, 1719, in the Watstay (now Wynnstay) estates and took the name of Wynn; leader of the Welsh Tories and Jacobites and M.P. for Denbighshire. ⁴ p. 74.

⁵ Robert Myddleton of Chirk Castle, M.P. for Denbigh borough, and another neighbour.

of his old Tory friends ; however it will be well to watch him.... The Fury & Boldness of the Jacobites in these Parts make me apprehend they are not without some hopes of succeeding. There is many times a probable conjecture to be made from the common behaviour of a Party, & long before the Plot broke out, I strongly suspected there were some Designes of that Nature carrying on & in a Letter I wrote since to Mr Jones, my L^d Chancellor's Secretary, I gave very plain hints of what I suspected which was as much as I could do without proof. God grant my present suspicions may prove groundless....

Yor^r very humble Servant

JOHN MELLER.

I congratulate you & my Lady on the Birth of your Son¹. It was very agreeable news to me. I hope he will live to add to the Comfort of your Family. I gladly accept the office you designed for me & desire you will please to think of some proper Person for my Proxy & acquaint my nephew Simon that he may wait on the Person to desire that favour from him on my behalf....

Solicitor-General to William Pulteney²

[H. 236, f. 299.]

Oct. 31, 1723.

SIR,

I have at your request read over the inclosed case of Mons. Saladin³, & tho' I am not fully of opinion with the Judgment which has been given, yet for the reasons which I hinted to you in general, when I had the honour to see you here, I cannot think that Paper is fit to be printed. The publishing of Pamphlets tending to expose the Decisions of Courts of Justice is taken as an appeal from those the Law makes the proper Judges to the people & has been often censur'd & punished, especially if it has been accompanied with any misrepresentation of facts. Now, as far as my Memory serves me on this occasion, I am apprehensive some circumstances are mention'd in this paper in favour of Mons^r Saladin which (tho' they may [be] very true) yet did not appear in Evidence in his Cause, & one or two are omitted which made against him. I remember the House of Lords did not long ago

¹ Sir Philip's second son Charles.

² W. Pulteney, afterwards Earl of Bath, at this time Cofferer of the Household.

³ See the case, H. 848, f. 165.

commit a person for pretending to print the Evidence in his Cause, after they had determin'd against him, & printing only the Depositions on his own side. As to Mons^r Saladin's character, there is nothing in this Cause that in the least reflects upon it. On the contrary, whoever hears of it might believe that (whether the Judgment was right or wrong) his case was hard. As to the having his Cause reheard, I [am] afraid that cannot be, but his solicitor should enquire whether it has been ever granted in these Causes of appeal before the Judges, & if it can be done, it may not be improper for him to make such an application.

CHAPTER VIII

ATTORNEY-GENERAL

AT the beginning of the year 1724, after serving for some three years as Solicitor, Sir Philip was promoted to the higher office of Attorney-General, in consequence of the elevation of Sir Robert Raymond to the Bench. A larger responsibility attached to this office; he was now the principal legal adviser of the Crown, and a member of the administration of whose measures in Parliament he became a prominent supporter. An immense load of public business devolved upon him¹. During the ten years that he occupied this office he was called upon to give his advice on several questions of difficulty and of importance, and to represent the Crown in various prosecutions undertaken in the interests of good order and public security. He conducted the case for the Crown against the highwayman, Jack Sheppard, in November 1724, against Jonathan Wild in 1725, and against some other notorious offenders, including William Hales and Thomas Kinnersley for forgery, in December 1728², and John Huggins, warden of the Fleet Prison, together with Thomas Bambridge and Richard Corbett for the murder of Edward Arne, a prisoner, in May 1729.

The latter was one of the several prosecutions instituted against individuals for ill-treatment of prisoners under their care, which followed a report of a committee of the House of Commons appointed to inquire into the state of prisons, when incredible scenes of brutality and misery had been revealed³.

So terrible was the condition of the gaols at this time, that

¹ He was sometimes detained at the Old Bailey from 8 in the morning till 3 a.m. the next day. Simon Yorke to J. Mellor, May 24, 1729, Erthig MSS.

² *State Trials*, xvii. 162-296.

³ *State Trials*, xvii. 297; *Parl. Hist.* viii. 708; Strange, ii. 882. See also H. 789, f. 244.

the capital penalty was a far more merciful punishment than a sentence of imprisonment. Few escaped with their lives or with their health uncontaminated by the fearful diseases which raged in the gaols, and the prisoners entering the Court from the cells often carried the deadly infection to their judges. Thus, both Kinnersley and Hales, defendants in the case just mentioned, died after a few months' imprisonment, and their judge, Lord Chief Baron Pengelly, fell a victim shortly afterwards in 1730, while the same fate overtook Mr Justice Abney and many others.

Unfortunately the present prosecution was unsuccessful in bringing home to the accused the charge of responsibility, and they were acquitted. But the exposure of such villainies had some effect in suppressing the worst evils in prison administration. The fatal and monstrous practice of delegating authority was one of the greatest sources of mischief, and Lord Hardwicke refused an application of a gaoler in later years to assign over to another the fees of his office and that of the taphouse, as leading to oppression and extortion, and the latter especially to riot and debauchery, among the prisoners¹. But many years had to elapse before those in confinement could hope for humane or decent treatment.

The prosecution of Thomas Woolston for blasphemy was a case which attracted a good deal of attention. The offence, in the first place, consisted in the publication in 1725 of a tract entitled *A Moderator between an Infidel and an Apostate*, in which the author questioned the historical accuracy of the Resurrection and the Virgin Birth. Such speculations, however much they might offend the religious feeling of the nation, would not now arouse apprehensions in the civil government, or incur legal penalties; but at the time of which we are writing, when the authority of government was far less stable and secure and rested on far narrower foundations than at present, such audacious opinions were considered, not without some reason, as a menace, not only to religion but to the state.

The great problem of all governments at this period was to govern, to preserve the state from the various dangers which were constantly threatening to overturn it and reduce all to confusion. The fundamental truths of Christianity formed an essential part of the civil constitution on which the whole fabric of society was constructed. Those who publicly questioned these truths

¹ 2 Vesey, 238.

were, it was held, attacking and undermining the security of the state, destroying morality, removing the strongest supports of law and order and disturbing the King's peace. Religious mysteries such as these, however, were subjects very ill suited for briefs of contending barristers in the Courts of Law, and it was the duty of the government to initiate a prosecution only in very flagrant cases. In the present instance, the Attorney-General, for these reasons probably, consented to abandon the prosecution. But the author very soon afterwards, during the years 1727 to 1730, produced further a series of tracts on the Miracles, which obliged the authorities to take action. He was tried before Lord Chief Justice Raymond, March 4, 1730, and obtained a just and fair consideration of his defence. The Attorney-General drew attention to the irreligious character of the book in which our Lord was compared to a magician and impostor, and the author, in order to claim the support of St Augustine, had deliberately misquoted a passage from his writings. To the contention of the prisoner's counsel that he had written as a sincere Christian, it was replied : "If the author of a treasonable libel should write at the conclusion 'God save the King' it would not excuse him." He was found guilty and sentenced to a fine of £100 and to imprisonment for one year¹.

In the same way, obscenity, apart from the moral offence, was regarded as a danger to the security of the state. In *Rex v. Curll*, a prosecution undertaken in 1727, in consequence of the publication by Edmund Curll of an obscene book, Sir Philip argued : "What I insist upon is, that this is an offence at Common Law, as it tends to corrupt the morals of the King's subjects and is against the peace of the King. Peace includes good order and government, and that peace may be broken in many instances without an actual force.

1. If it be an act against the constitution or civil government.
2. If it be against religion...that great basis of civil government and liberty and
3. If against morality...for government is no more than public order, which is morality.

My Lord Chief Justice Holt used to say 'Christianity is part of the law²?' And why not morality also?" He then drew a

¹ An account of the trial (1729), *Life of Mr Woolston*, pp. 11, 17; *Mem. of William Whiston*, i. 233.

² Cf. p. 90.

distinction between private acts of immorality, many of which were not offences known to the law, and public, affecting all the King's subjects in general, and cited precedents. There were, however, some strong precedents against him, especially that of the *Queen v. Read*, in which it was held that a libel must be an injury to a particular person, and the judges hesitated to decide upon this important point till the following term. A verdict was then given in accordance with the Attorney-General's argument, and it was laid down that the offence was a temporal one and punishable at Common Law as a libel. The offender was accordingly declared guilty and sentenced to the pillory¹.

The Attorney-General had also to deal with direct political attacks upon the government. In general he showed a decided reluctance in embarking on prosecutions of this kind, partly from the invidious position in which such proceedings placed the administration and especially in case of failure, partly from a character naturally averse from even the appearance of harshness. On July 14, 1729, for example, he writes dissuading the Duke of Newcastle from proceeding further against one Farley, accused of treason on account of a publication in *Mist's Journal*².

In some cases, however, prosecutions were instituted. On February 25, 1729, Sir Philip took proceedings against the three printers of *Mist's Journal* for a libel, in a letter of August 24, 1728, "containing scandalous reflections and odious comparisons," between King George I and the Pretender; and the offenders were found guilty and sentenced to hard labour and the pillory³.

In December of the same year, the government suffered a defeat in a prosecution for libel against Francklin⁴, the printer and publisher of *The Craftsman*, the jury returning a verdict for the defendant, and the result being received with jubilation and rejoicing by the opposition and the supporters of the journal⁵. It was on this occasion that *The Honest Jury or Caleb Triumphant*⁶ was published, a lively ballad universally attributed to Pulteney, which obtained great popularity.

¹ 2 Strange, 788-91; *State Trials*, xvii. 154; H. 791, f. 13; H. 767, f. 364.

² H. 789, f. 180. ³ *State Trials*, xvii. 666, note; H. 789, f. 102.

⁴ He had already been proceeded against on December 2, 1727, for printing and publishing No. 31 of the *Craftsman* and found guilty of the publication, while the question of libel was to be argued later in arrest of judgment; *Political State*, xxxiv. 592, 599.

⁵ *The Craftsman* (ed. 1731-7), i. pp. v. and vi. (dedication); v. 224, 214.

⁶ Caleb d'Anvers was the *nom de plume* of Amhurst the editor.

THE HONEST JURY OR CALEB TRIUMPHANT.

To the tune of *Packington's Pound*.

I.

Rejoice ye good Writers, your Pens are set free;
 Your Thoughts and the *Press* are at full Liberty;
 For your *King* and your *Country* you safely may write,
 You may say *Black* is *Black*, and prove *White* is *White*.

Let no Pamphleteers

Be concern'd for their Ears;

For every Man now shall be try'd by his *Peers*.
Twelve good honest Men shall decide in each cause
 And be Judges of *Fact*, tho' not Judges of *Laws*.

II.

'Tis said Master *Caleb* a Paper did print
 Which sometimes at *some folks* look'd slyly asquint,
 He weekly held forth of *no Peace* and *no War*
 So was forced from his *Trade* to appear at the *Bar*.

Thus for talking too free

Master *Attor—ney*

Strain'd his lungs for to set him in the *Pillory*.
 But *Pillories* now shall be raised for the shame
 Of *some Rogues*, whom yet 'tis not proper to name.

III.

You may call the Man *Fool*, who in treaties does blunder,
 And stile him a *Knave*, who his Country doth plunder.
 If the *Peace* be not good, it can ne'er be a Crime
 To wish it were *better*, in Prose or in Rhyme.

For Sir Philip well knows

That¹ Innuen—does,

Will serve him no longer in Verse or in Prose ;
 Since *twelve honest Men* have decided the Cause
 And were Judges of *Fact*, tho' not Judges of *Laws*.

The last verse ran :

VIII.

But one thing remains, his² Predictions to crown,
 And that is to see the Leviathan down ;
 Nor let us despair; for the year is not out,
 And a Month or two more may bring it about.

Then in chorus let's sing

And say God bless the King,

And grant that all those who deserve it may swing !
 If *twelve honest Men* were to judge in this Cause,
One good verdict more might secure all our *Laws*³.

¹ Not *his* innuendoes as printed by Lord Campbell and by Wilkins, *Political Ballads*, ii. 233. The jury had to decide the question of *application*, the names of the persons libelled being always carefully concealed under a pseudonym or asterisks. This, however, was not to secure immunity to the writers. See also *The Craftsman*, i. 102, 106.

² I.e. *The Craftsman*.

³ *The Craftsman* (ed. by Amhurst, 1731-7, 14 vols.), v. 337; see also the broadsheet, *Rox.* iii. 637, Brit. Mus.

In June 1730, perhaps in consequence of this defeat, the Attorney-General gave his opinion against prosecutions of *Fogg's Weekly Journal* and of *The Craftsman*. "To commence a prosecution in [a case] of this kind and fail in it, might be attended with consequences one would wish to avoid....As to *The Craftsman*, it is only a general dissertation concerning that honour and veracity which ought always to be preserved in communication from the Throne, and tho' there is a certain sauciness in the manner of treating it, I don't [find] any particular stroke that can render it criminal¹."

After its great and signal triumph, however, at the expense of the government, it was extremely improbable that *The Craftsman* would be induced by any leniency on the part of the administration to adopt a more moderate tone. Bitter and audacious attacks upon the ministers continued to be published and on the appearance of No. 235, *A Letter from the Hague*, an able paper written by Lord Bolingbroke on January 2, 1731, the government instituted a fresh prosecution against Franklin, and this time with complete success, due in great measure to the Juries Bill, 3 George II, c. 25, passed in the previous year, of which Clause 15 allowed the judges to appoint special juries in trials at the Courts of Westminster². The case was largely a trial of strength between the contending political parties; and William Murray, afterwards Lord Mansfield, then present as a young barrister, relates that "there was a great concourse of people; it was a matter of great expectation, and many persons of high rank were present to countenance the defendant. Mr Fazerkerly and Mr Bootle (afterwards Sir Thomas Bootle) were the leading Counsel for the defendant. They started every objection and laboured every point³." The offending article, which announced the rumoured abandonment of the alliance of Seville and the intention of the ministers to violate the national engagements, would nowadays, although false and mischievous, as this undoubtedly was, scarcely justify the intervention of the government or the infliction of a penalty. But unscrupulous attacks upon the King's ministers, and even the free criticism of their conduct and policy, entailed, as in the case of audacious religious speculations, much greater dangers to the state at a time when governance was established

¹ H. 790, f. 257.

² See chap. xx. H. to N. Aug. 7, 1752; *Statutes at Large*, xvi. 161.

³ Lord Erskine's *Speeches*, i. 373.

and maintained on the narrow basis of authority than when, as in our own times, it is supported by the vast mass of more or less intelligent national opinion and national consent. Moreover, great as has been the increase of the power of the press as a whole in later times, yet that of the individual journal has diminished ; and the influence of a well-written and well-timed attack upon the government, such as the *Letter from the Hague*, would be far greater than that of any article in a modern newspaper however brilliant or sensational.

Accordingly, Sir Philip Yorke in his opening speech declared this to be a prosecution "for printing and publishing a scandalous and seditious libel ; an offence (however it hath been treated of late days) which the law considers as a very heinous crime, as it tends to disturb the peace of the Kingdom and to bring into contempt the King's administration of the government, and as it tends to create great jealousy and dissatisfaction in the minds of his Majesty's subjects against his government."

He showed from extracts that the paper had charged ministers with perfidy towards the allies, and with pursuing measures destructive to the country. "A reflection on the King's ministers, officers, magistrates etc.: is a high reflection on the King himself." He hoped the Court would never countenance the notion, that it is less libellous to scandalise his Majesty's government than to scandalise a particular person¹. He told the jury that it was immaterial whether the statements were true or not, or whether direct or indirect by way of innuendo, and cited precedents. On the great subject of the liberty of the press, which had been introduced by the counsel for the defence, who had urged that, if this were punished as a libel, no person could print any news at all, he declared that the defendant was not charged with publishing the pretended news but with making the libellous applications and proceeded : "My Lord, I am really at a loss to know what sort of liberty they mean by it. I hope they don't mean a licentious and an unbounded liberty to libel and scandalise his Majesty or his principal officers and ministers of state, or his magistrates, or even any of the meanest of his subjects, whenever they think fit ; for that would be a dangerous liberty indeed, and be of a very pernicious consequence." The actions of all subjects were limited by the law as were the prerogatives of the King ; nor could it be supposed that a printer alone was exempted from

¹ H. 767, f. 271.

legal restraint. His liberty, like that of all other men, was liberty to carry on his business, but not to libel, which was no part of it. On this point the judge observed: "Doth not the law say, if a man meddle with anything he hath nothing to do with, it will be a libel, and always hath been held so." With regard to an insinuation that the offence of libel was the tyrannical invention of the Star Chamber, he showed that it was based on a law passed in the reign of Edward I, of almost 500 years standing and authority.

Upon another very important point, Sir Philip upheld the opinion which gave rise to much heated political debate later¹, that in libels the jury were only to decide upon the fact of publication and the application, while the question whether the offence constituted a libel, that is the point of law, was to be left to the judge. "The point of law is, in case they [*i.e.* the incriminating passages] are so applied, whether the publication amounts to a crime, and that point is for the determination of the Court. The law is alike in other cases. Suppose a special verdict be found in a case of felony, the jury finds the fact and the Court and Judges the nature of the crime. It is so in murder and high treason; it is so in all cases of misdemeanours. It is confounding the office of the Court and the jury and it is subverting the law to say the contrary²."

This doctrine of the law of libel received the full support of the judge and it is followed in the refrain of the ballad just quoted, which, though celebrating the triumph of free criticism, particularly declares that the jury were "judges of fact though not judges of laws³." Nor was any opposition to it on this occasion offered by the jury who returned a verdict of guilty of publishing the libel, Francklin being fined £100 and sentenced to a year's imprisonment,

¹ See below, in the Wilkes case, chap. xxxii.

² H. 767, f. 258, notes of the trial with corrections by Charles Yorke; printed report of the speech in *State Trials*, xvii. 664, though longer and more elaborate, is to the same effect.

³ It was thus cited correctly by Lord Mansfield in the case of the Dean of St Asaph in 1784 on this very question (Lord Erskine's *Speeches*, ed. by J. Ridgway, i. 375). The editor in a footnote asserts Lord Mansfield's quotation to be incorrect and relying on "a pamphlet printed in 1754," gives the last line of the verse as 'Who are judges alike of the facts and the laws,' and this, though obvious nonsense, is followed by Lord Campbell, *Lives of the Chancellors*, v. 25, *State Trials*, xxi. 1037, and Wilkins, *Political Ballads*, ii. 233, who are also in error as to the date of the trial and ballad. There is no doubt that the version printed in the text, published by Amhurst himself, is the correct one. The original broadsheet in the British Museum also gives the same.

and directed to find security for good behaviour for seven years¹.

Another prosecution about this time disclosed dangers to the state greater than any of those we have yet noticed, since they threatened to corrupt the very fountain of justice at its source and to undermine the national confidence in the administration of the law.

The prosecution and eventual disgrace of Lord Chancellor Macclesfield in 1725 for corruption placed Sir Philip Yorke in a situation of some difficulty. He was bound by many ties of friendship and gratitude to the Chancellor, whose great qualities he recognised and to whom he owed some part of his early success. At the same time, the serious delinquencies which now came to light were such as could not fail to repel one who regarded the honour and dignity of the law throughout life with an almost superstitious reverence.

Opinions have differed as to the exact guilt of Lord Macclesfield² as they have concerning that of Lord Bacon. Great unpopularity with the bar, owing to faults of temper, raises the suspicion that his fall, like that of his great predecessor, was the result, at least in part, of other causes³. In his case, no charge so crude as that of taking bribes directly to influence his decisions was offered by the prosecution. He had shown ability and uprightness in his judicial functions, and his decrees carry weight as legal precedents. The mere sale of the office of master, and the large fee paid in addition to the Chancellor were not illegal and were sanctioned by precedent⁴, and the latter could not be held directly responsible for the bankruptcy of the masters and their appropriation of the money of the suitors. Large allowance must be made for the slipshod methods of the time and the bad customs inherited from the past, always difficult to abolish because of the private interests involved. But the particular guilt of the Chancellor lay in taking advantage of the mischievous system then prevalent, and in exacting enormous sums, greater than had ever been paid to his predecessors, for the grants to the new masters, instead of attempting to suppress it.

¹ *State Trials*, xvii. 626; II. 767, f. 258; Wright, *England under the House of Hanover*, i. 141-2.

² *Lives of Dr Z. Pearce* (1816), i. 379.

³ See pp. 63 and 105; and cf. Speaker Onslow, "He wanted temper to manage himself well under his exaltations...and created so many enemies to himself by that, that in his fall he was pitied by very few, even of the Whigs." *Hist. MSS. Com.*, Earl of Onslow, 514.

⁴ *State Trials*, xvi. 770, 1151 sqq.

The sale of John Mellor's mastership to his successor for £9000 has been already mentioned, who in addition paid to the Chancellor the sum of £1575¹. Strange stories were told of the bargains struck with the Chancellor in his study and with his wife in her drawing room, and of baskets of guineas carried backwards and forwards by his secretary. It was also a charge against him that his whole efforts, when the crash came, had been to conceal the scandals and not to remedy them.

Such proceedings, obviously, could not continue without degrading the whole administration of justice. Similar practices, when those only of defaulting solicitors, have sometimes given a shock to public confidence in the profession of the law. Great, therefore, must have been the anxiety and feeling of insecurity caused by the discovery of the complicity in scandals of this kind of the Lord Chancellor himself, the Head of the Law, the Dispenser of Equity, the Keeper of the King's Conscience, often a Lord Justice of the Kingdom with regal functions.

Placed thus between private friendship and public duty, Sir Philip Yorke appears to have acted a kind, proper and honourable part. It was impossible to defend, but he excused himself on the plea of friendship from taking part in the impeachment and his scruples were understood and respected by the House of Commons, who permitted him to delegate his duties to the Solicitor-General². He appears also to have done what he could to mitigate the severity of the prosecution during the debates before the impeachment³.

Lord Macclesfield was finally found guilty by the Peers unanimously on May 25, 1725, and was sentenced a few days later to a fine of £30,000. But motions to forbid him sitting in Parliament, appearing within the verge of the Court and excluding him from holding any office in the state were defeated⁴. This last incident suggests that his offence, though serious enough to cause his immediate dismissal from his high office, was not considered at the time one of a kind to blast his character, and he still retained the favour of the King, who signified to him his intention of paying the whole fine from his privy purse.

His last letter to Sir Philip Yorke, which was not delivered till after the writer's death, wishes him joy on his supposed appointment

¹ p. 25.

² See chap. xxv. H. to N. Jan. 7, 1757; Cooksey's *Essays*, 55.

³ *Parl. Hist.* viii. 419; *Political State*, xxix. 280; *Annual Reg.* (1764), 279.

⁴ *State Trials*, xvi. 1395; *Hist. MSS. Com.*, Duke of Portland, vi. 8.

in 1732 to that high office, of which he had himself been shown unworthy and from which he had fallen¹.

In May 1724, together with Sir Clement Wear, the Solicitor-General, Sir Philip Yorke, was consulted concerning the right of the Crown to tax the Island of Jamaica, and gave his opinion that "that will depend upon the question whether Jamaica is now to be considered merely as a colony of English subjects or as a conquered country. If as a colony of English subjects, we apprehend they cannot be taxed but by the Parliament of Great Britain or by and with the consent of some representative body of the people of the Island, properly assembled by the authority of the Crown. But if it can now be considered as a conquered country, in that case we conceive they may be taxed by the authority of the Crown," an opinion which was afterwards followed by Murray and Ryder in 1744². The constitutional position of the Island is not determined in this opinion, and though we see here the doctrine undoubtedly correct in law, which affirms the right of the Imperial Parliament to tax the colonies, laid down without hesitation, yet the strong distinction drawn between the status of "colonies of English subjects," and that of "conquered countries," clearly suggests the principle by which the mother country should be guided in dealing with her colonies, not only concerning taxation but in all other matters. Some years afterwards, together with the Duke of Newcastle, he dissuaded Henry Pelham, then first minister of the Crown, from his project of taxing America³.

The rebellious attitude of Massachusetts in 1725, however, met with the condemnation of the legal advisers of the Crown; and in 1731, though Sir Philip Yorke and Charles Talbot, the Solicitor-General, defended the charter of the plantation against a proposed encroachment by the Crown, no support was given to the action of the colonial legislature when it claimed the right to dispose of the public money instead of leaving it to be issued on the governor's warrant, a claim which was characterised as "a design to assume the executive power of government and to throw off their dependence on Britain"⁴.

¹ H. 237, f. 151; endorsed by Lord H. "on the first report of my having the Great Seal in 1733...but not delivered till after his Lordship's death." Lord M., however, died April 28, 1732; other letters from the ex-Chancellor congratulating him on his marriage and promotion to office, H. 236, ff. 175, 190; also 169.

² Record Office, Board of Trade, Jamaica, xviii. No. 96, with corrections in Sir Philip's handwriting; Lecky, *Hist. of England* (1887), iii. 316; Bancroft's *Hist. of the U. S.* (1876), ii. 512.

³ See chap. xix.

⁴ H. 560, f. 26 sqq. also f. 116; R.O., Board of Trade, New England, xxi. f. 167;

In 1725, on the proposal of Gibson, Bishop of London, to establish ecclesiastical jurisdiction over the plantations, Sir Philip and Sir Clement Wear advised that it would be more prudent to limit ecclesiastical authority to jurisdiction over the clergy, since a spiritual jurisdiction over the laity would never be tolerated by the colonists¹.

On August 13, 1728, the Attorney-General states his opinion on a reference from the Board of Trade, upon the attempt made by the colonists to establish a nonconformist Independent Church, and on the petition of Timothy Cutler², the clergy and members of the Church of England in Massachusetts, who complained that they had been forced to subscribe to ministers of this denomination and sought relief by the repeal of certain Acts of the colonial legislature :

1. The three first Acts complained of, having been confirmed by the Crown, cannot be repealed without the concurrence of the general assembly.

2. The others, having been transmitted more than three years ago and not disallowed, the King has now no power to give a negative thereto, nor can they be repealed but by Act of the assembly.

3. The principal difficulty is whether these Acts are repugnant to the Charter and consequently void in their original.

(1) The Charter directs a general liberty of conscience, etc., to Papists, and neither establishes nor prohibits a Provincial Church.

(2) It seems that by virtue of the general power of making laws, the legislature may take care that the public worship of God shall be celebrated. (3) Their power of making laws is restrained to such as are not repugnant or contrary to the laws of England. (4) The establishment of the Church of England is part of the law of England³. (5) The establishment of a Provincial Church upon the independent scheme is not consistent with that part of the law of England. (6) The providing by laws for the election of Independent ministers throughout the Province and obliging persons to contribute by public taxes to the maintenance of such ministers by compulsory laws is so far an establishment. *Ergo*

xvii. No. 37; Bancroft, ii. 515, and see also the case of Carolina, *ib.* 518. See also *Hist. MSS. Comm. Rep.* v. 229, 243. ¹ II. 560, f. 98.

² Formerly an Independent minister and as such appointed, in 1719, President of Yale College, but dismissed on joining the Anglican communion in 1722. After visiting England and obtaining a doctor's degree, he became Anglican minister at Boston; J. A. Doyle, *The Colonies under the House of Hanover*, 222, 228.

³ Cf. p. 81.

quaere whether such laws are warranted by the Charter. If they are not, the validity thereof can only be determined by a judicial proceeding. And *quaere* the judgment of the committee of council in the case of two Quakers committed for breach of some of these laws¹. No extra-judicial determination with regard to these laws can be of force, but his Majesty may give such instructions to his Governor as to the assenting to future acts of assembly as he shall think fit².

The official opinion of the Attorney- and Solicitor-General dated August 16, 1732, states finally that it would be unreasonable now to declare any of the acts complained of void in themselves and contrary to the Charter, inasmuch as they had not been disallowed by the Crown³. On the other hand, the Crown lawyers advised that the proposed synod of the Independent ministers could not be held without the approval of the Crown, and it was consequently abandoned⁴.

In 1726 the Attorney-General gave his advice on "a very melancholy scene"—the setting up of a new sect and chapel by the famous "Orator Henley," who used a garbled version of the Liturgy and took money at the door—which was brought to the notice of the government by Gibson, Bishop of London. If the Act of Toleration, he wrote indignantly, instead of being a refuge for tender consciences was "to protect ill designing men in mangling the Book of Common Prayer...and turning religious assemblies into theatres and stages...I shall not wonder if the act become in a little time the abhorrence of the Clergy, and if the cry of the danger of the Church be revived." In his reply the Attorney pointed out that there was nothing illegal in these proceedings, and while expressing his readiness to suppress, when possible, any improper licence, advised the administration not to embark in a prosecution which must fail, and would rather encourage than restrain the mischief⁵.

¹ Certain Quakers, having refused to assess taxes in Dartmouth and Tiverton in New England for the support of the Independent ministers in 1723, were fined and imprisoned, but their punishment was remitted on appeal to the Privy Council in England, June 2, 1724. Gough's *Hist. of the Quakers*, iv. 218-26.

² Rough draft from the deed-box at Wimpole.

³ H. 794, f. 300. The grievance was removed in 1743 by the exemption of the Anglicans from all payments for the support of the Independent ministers and chapels; J. A. Doyle, *The Colonies under the House of Hanover*, 230. ⁴ Ib. 226.

⁵ For account of this person see T. Wright, *England under the House of Hanover*, i. 104, 114.

⁶ H. 788, ff. 13, 53, 63 sqq.; for another complaint by the Bishop, H. 237, ff. 24-5.

On November 8, 1728, he deals with a proposal of the King that striking an officer in the Army should be made a capital punishment. He explains that according to the present law it could only be so when connected with a refusal to obey a command or an attempt to stir up rebellion, but that a blow merely given in anger, apart from these circumstances, was not a capital offence, nor does he advise that the law should be extended¹.

Some curious questions of foreign enlistment were submitted for his opinion. It had long been the custom of the King of France in time of peace between the two countries, to enlist men for his army among the subjects of the King of England, especially in Ireland². Less lawful were the clandestine practices of Frederick William, King of Prussia, who, possessed with a mania for tall men, sent to entrap them and to bring them over to his regiment at Berlin³. His emissaries even enlisted recruits from among the King's Guards at their barracks, offering each five or ten guineas as an inducement, and exposing themselves, according to the opinion of the Attorney-General, to severe punishment under the Foreign Enlistment Act and for persuading to desertion.

There are many allusions which show the dangerous and disturbed state of the country at this period, and the necessity for a strong government and a strict administration of the laws. In September 1727 there were serious turnpike riots near Bristol, and the rioters could neither be apprehended nor discovered⁴. In November of the same year there was a murderous riot in Cornwall, and bands of men paraded the country armed with guns. The year before, the Attorney-General had, by desire of the government, drawn up a proclamation offering a reward for the discovery of the murderers of one Thomas Ball, in London, when a shocking state of lawlessness and intimidation was disclosed. The murderers, eight in number, had entered the victim's house in the evening of January 24, 1726, and had killed him openly; afterwards appearing publicly in the streets and threatening everyone with firearms that attempted to apprehend them. They wounded several persons, their numbers increased daily and they became so formidable that the constables were afraid to seize them. No evidence could be obtained against them for fear of murderous

¹ H. 789, ff. 106, 108; also 185.

² Mem. of a consultation on this subject between the Attorney, Ch. Talbot the Solicitor, and the Lord Chancellor, H. 790, f. 308.

³ See description of this folly in Carlyle's *Fred. the Great.*

H. 788, f. 356.

reprisals, while some of the ruffians, who had been apprehended, were liberated again by "the imprudence of some gentlemen in authority".¹

In dealing with such disturbances and riots it was impossible for the administration to define the exact conditions in which the military force was to be called in and ordered to fire on a mob. The responsibility must rest on the local authorities; and Sir Philip advises on January 2, 1733, that the instructions issued to troops, sent in aid of the civil power to quell riots, should be "in general terms, viz. not to repel force with force unless it shall be found absolutely necessary".²

Meanwhile Sir Philip's legal reputation had drawn to him at the bar a private practice of prodigious extent and of very large profit³. The competition was great to secure his services, but the business of the Crown and his political duties made large demands on his time, and he was often obliged to refuse briefs. Litigants, however, who sought his assistance would sometimes take no denial and would even apply to members of the administration to employ their influence with the Attorney-General in their favour⁴.

Jeremy Bentham, from whom we have already quoted, gives a singular account of the manner in which business was transacted in the Court of Chancery, where a great part of Sir Philip's causes were heard⁵, during the declining years of Lord Chancellor King.

"At the time Sir Philip Yorke was Attorney General, Mr Talbot was Solicitor General and Lord King was Lord Chancellor, who had been advanced to that high office from being Chief Justice of the Common Pleas and had distinguished himself for having been not only a very able common lawyer, but also a good divine.

¹ H. 788, f. 7 sqq.

² See also H. 791, f. 188; for an important opinion given in his private practice, but almost of a public nature, on the right of appeal from the Vice-Chancellor of Cambridge University to the Senate, in March 1731, see *Opinion of an eminent Lawyer etc.* (1751), 33. For his opinion on the legal status of slaves landed in England see chap. xxvi.; for the legal status of a man enlisted before taking the oath, H. 788, f. 263; on the right of the Chancellor to present to Crown livings, H. 789, ff. 65, 69; on new statutes for the Order of the Bath, H. 787, f. 313; and generally for his opinions as Attorney-General, H. 786-96.

³ For an example of his methods of pleading and arranging his case, see notes of his speech defending the Africa Co., H. 558, f. 124. Some long and learned arguments in appeals before the Privy Council are in H. 868, ff. 28-51, also H. 848, ff. 54 sqq., 312, 377; in Exchequer and Chancery cases H. 827-30; and for appeal cases in the House of Lords, H. 799 and following vols.; for printed cases see 2 Strange, 953-1074; Mosely's Reports, *passim*; Holliday's *Life of Lord Mansfield*, 28, and J. Brown, *Reports of Cases in Parliament*.

⁴ E.g. the letter to Sir P. Yorke from Townshend in 1725 (H. 237, f. 5) and others in this vol., *passim*; and pp. 109 sqq.

⁵ Cooksey's *Essays*, 59; see also Lord Hervey's account of Lord King, *Memoirs*, i. 285.

He became, however, so far advanced in years when he held the Seals as Chancellor, that he had often dozed over his causes when upon the Bench, a circumstance which I myself well remember was the case; but it was no prejudice to the suitors; for Sir Philip Yorke and Mr Talbot were both men of such good principles and strict integrity, and had always so good an understanding with one another, that although they were frequently and almost always concerned for opposite parties in the same cause, yet the merits of the cause were no sooner fully stated to the Court but they were sensible on which side the right lay, and accordingly the one or the other of these great men took occasion to state the matter briefly to his Lordship and instruct the Register [Registrar] in what manner to minute the heads of the decree, so as that strict justice might be done."

He found time in 1727, during these years of almost uninterrupted labour, to write a pamphlet of great legal research and argument, entitled *A Discourse of the Judicial Authority belonging to the Office of the Master of the Rolls in the High Court of Chancery*. The occasion of the tract was a controversy which had arisen between Sir Joseph Jekyll, the Master of the Rolls, and Lord Chancellor King, concerning the authority and jurisdiction of the former in the Court of Chancery, the latter maintaining that it was not only subordinate to, but also dependent upon the Chancellor, and that there was no judicial power inherent in the office of the Master of the Rolls.

In support of this view, a pamphlet was published in 1726 entitled *The History of the Chancery*, by Samuel Burroughs, and the effort was rewarded by Lord King with a Chancery Mastership. Sir Joseph Jekyll, however, found in his nephew, the Attorney-General, a zealous supporter of the ancient rights of his office, and Sir Philip Yorke's able pamphlet, which appeared the next year, backed as it was by references to unquestionable authorities and supported by careful research, practically settled the questions at issue. Published almost immediately after that of Burroughs, it had all the effect of a reply to the latter's arguments, though it contains no single allusion to this production, and the question is treated not polemically but historically throughout, and considered strictly on its merits. A second edition of the *History of the Chancery*, which had met with some success, "corrected and enlarged with further proofs," had been advertised for publication, but the appearance of Sir Philip's *Discourse* caused it to be immediately withdrawn¹. Desirous, however, of not leaving the last word to his

¹ *The Discourse*, Pref. to 2nd edition, ii.

antagonist, of whose identity he was ignorant, Burroughs applied for and obtained the assistance of William Warburton, later the famous religious controversialist. With the latter's collaboration another work was produced in 1727, entitled *The Legal Judicature in Chancery Stated*. To this Sir Philip replied by publishing in 1728 an enlarged edition of his former pamphlet and by prefixing an introduction, in which he noticed and exploded some of the most glaring inaccuracies of Warburton and Burroughs. He expressed some slight contempt for the hastiness and scanty learning of his opponents, but otherwise the controversy was carried on from his side with the judicial calmness characteristic of the writer. "The author of the *Discourse*," he says in his Preface, "avoided writing in a controversial way, which is too apt to lead into some sharpness of style, and frequently tempts a man to take advantage of errors and mistakes, merely for the sake of exposing the weakness of his opponents. *The History* furnished plenty of these advantages, but they were all passed by on account of the dignity of the subject which concerned the Judicature of the highest Court of Justice in Westminster Hall, and the Royal Authority, and Fountain of all Jurisdiction."

The opening passage runs: "The Laws are the Birthright and Inheritance of all the subjects of England." But we need not follow the details of the controversy, which in the course of the dispute became somewhat minute and tedious. Sir Philip says himself: "I have tired myself, and am afraid I have trespassed too much on the Readers Patience by animadverting so particularly on the Author's mistakes and wrong suggestions"; and the question was almost immediately closed by the passing of the Act 3 George II, c. 30, which decided the matter according to the opinions set forth in the *Discourse* and fully confirmed the former authority and jurisdiction of the Master of the Rolls. The pamphlet, however, as being Sir Philip's only published work, is not without interest. It is composed without any aim at literary effect, but with admirable lucidity, and both in the arrangement and style has much in common with his later decrees in Chancery.

The names of the authors of the different pamphlets were kept carefully concealed. Members of the bar were then, perhaps, more cautious of appearing in print than they are at present. In this case too there was a special reason for not publishing the author's name, for there would have been some impropriety in the open support of the Master of the Rolls by the Attorney-General in a

controversy with the Lord Chancellor. It was not till many years later that Warburton, while on a visit to the celebrated Mr Allen at Prior Park, Bath, disclosed the part which he had taken in the controversy in conversation with Sir Richard Heron, when Charles Yorke, who happened to be also a guest, told the company at the same time, to Warburton's great astonishment, the name of the author of the *Discourse*. Even then the authorship was not publicly known and the pamphlet was commonly ascribed to Sir Joseph Jekyll himself at whose instance it was composed¹.

Sir Philip Yorke's inclusion in the ministry as Attorney-General in January 1724 had coincided almost exactly with the overthrow and retirement of Lord Carteret, first of all to the vice-royalty of Ireland, and shortly afterwards to the ranks of the opposition. Pulteney joined him the next year, and the influence of Walpole was henceforth supreme in the Cabinet, though constantly exposed to the attacks of the able politicians now his antagonists, whose hostility was all the more violent because they had once been his friends. Henry Pelham and his brother, the Duke of Newcastle, at the same time obtained office, the former as Secretary at War, and the Duke as Secretary of State.

Several debates of importance took place in Parliament in which Sir Philip gave the government strong support. On April 20, 1725, he spoke in favour of the restoration to his client, Lord Bolingbroke, of his property in England².

The acquaintance with this celebrated person, and one who differed so widely from himself in character and principles, the

¹ Hargrave's copy of *The Legal Judicature in Chancery Stated* and *The Discourse* in the Brit. Mus. with MS. notes (press mark 510, d. 19, 1727); Nichols, *Lit. Anec.* v. 537. In Chalmers' *Biog. Dict.* *The Legal Judicature* is wrongly attributed to Sir Philip Yorke. Cooper, a writer frequently inaccurate, in his *Brief Account of the Court of Chancery*, 350 note, considers the tract a joint production, and says there was still in his time at the Rolls House some part of the work corrected for the press by Sir Joseph Jekyll; "I have a copy of a letter (original at the Rolls) consulting him as to the price at which the book should be sold, calling it his *Honour's Book*." These MSS. are not to be found at the Record Office now, or elsewhere. But there seems to be no doubt that the authorship is as stated in the text. There is a copy of the work of the first edition without the preface in the library at Erthig in which is written in the handwriting of Philip Yorke of Erthig (1743–1804), his godson, "This Treatise was drawn up by Mr P. Yorke, afterwards Lord Chancellor Hardwicke, at the desire of Sir Joseph Jekyll, at that time Master of the Rolls."

² *Parl. Hist.* viii. 461; Lord Hervey's *Memoirs*, i. 15; Lord B.'s papers and Sir P. Y.'s notes, II. 895. A letter of Sir R. Walpole to Sir P. Y. of June 8, 1725 (II. 237, f. 10), in which he writes: "By my Lord Bolingbroke's consent I desire you will proceed no further in the matter you mentioned to me," probably refers to the additional demand of being restored to his seat in the House of Lords.

most formidable opponent, moreover, of Walpole's administration, was nevertheless maintained for many years in good-humoured social intercourse.

Mr Yorke, as he was possessed of great convivial pleasantry, [writes Jeremy Bentham], to relieve himself under the pressure of business in his profession and his engagements in public affairs, even when he became Sir Philip Yorke and his Majesty's Attorney General, would sometimes enjoy himself in the company of men of genius like himself; and once upon his dining with Mr Taylor (commonly called Joe Taylor of Bridewell, then member of parliament for the borough of Petersfield in Hampshire) at his house at Stanmore in Middlesex, where Lord Bolingbroke made one of the company, his Lordship took occasion jocularly to ask Sir Philip Yorke whether he was never a rake in his younger days. Sir Philip's reply was that he must confess he never was a rake, for that indeed he was so early immersed in business that he never had any time to be one; upon which Lord Bolingbroke expressed himself to be not a little pleased with the reason Sir Philip had given him; for, said his Lordship, he was persuaded no one could ever distinguish himself and make his way in life in the manner Sir Philip had done, unless he had been a rake or at least had the seeds of a rake in him. Such a compliment as this, however Lord Bolingbroke might apply it to Sir Philip Yorke, yet the rest of the Company present could not but understand it with a view of making a still greater compliment upon himself, as shining abilities and rakery were so conspicuously united in Lord Bolingbroke's own character. This account of the conversation that passed between him and the late Lord Hardwicke I had from Mr Taylor himself, at whose house, and in whose company it happened¹.

Lord Bolingbroke, in spite of his bitter feelings against the Whig administration, never ceased to retain a warm admiration and respect for Lord Hardwicke. In 1733, while violently attacking the government in *The Craftsman*, and notwithstanding the prosecutions of the journal which the Attorney-General had promoted, he congratulated Sir Philip in a letter singularly happy in its friendly expressions, on the occasion of his recovery from illness, and in 1736, he reiterates to Sir William Wyndham his "great esteem for him and most inviolable friendship"².

Returning from this digression into which the great name of Lord Bolingbroke has led us, we find Sir Philip giving his support in Parliament to the government on various questions, including that of the maintenance of the land forces, against which several

¹ Cooksey's *Essays*, 58.

² p. 115; Coxe's *Sir Robert Walpole*, ii. 337; and see further p. 377.

members raised the now antiquated objection of the danger to the constitution¹. He would, however, on occasion both speak and vote against the administration. He supported, for instance, against the ministers and the Solicitor-General², the bill for inquiry into the sale of the Derwentwater estate, forfeited in the rebellion of 1715, on the ground of the inadequacy of the actual law to deal justly with the matters involved, when the transaction, in consequence of corrupt practices, was annulled. The veteran William Shippen³, the leader of the Jacobites in the House of Commons, declared on this occasion that he should ever honour him for his justice⁴. He opposed the Bankruptcy Act, 5 George II⁵, and as Attorney-General refused to subordinate his high office in the law to the political necessities of the administration. "Sir Robert Walpole," wrote his son, afterwards the second Lord Hardwicke, "was not sufficiently delicate about the decisions of elections. He once asked my Father and Mr Talbot to attend one; they after much pressing went and finding Sir Robert's friend had a bad cause, voted against him. Sir Robert swore he would never ask an Attorney and Solicitor again. I could not help replying that I partly believed they did it to prevent the Minister's repeating so improper a request⁶."

Sir Philip was one of the committee appointed by the House of Commons to inquire into the frauds upon the customs⁷, and he took a leading part in support of Sir Robert Walpole's famous Excise Bill. This was an advantageous project which aimed at substituting an excise upon wine and tobacco for customs duties upon the same articles, in order to prevent the evasion of the tax, and which at the same time established bonded warehouses⁸.

The enemies of the minister, however, says Lord Hervey, had shown the bill "in so formidable a shape and painted it in such hideous colours that everybody talked of the scheme as a general excise; they believed that food and raiment and all the necessaries of life would be taxed; that armies of excise officers were to come into every house and at any time they pleased; that our liberties were at an end, trade going to be ruined, Magna Charta overturned,

¹ *Parl. Hist.* viii. *passim*; *Hist. MSS. Comm.*, Duke of Portland, vi. 24.

² *Hist. MSS. Comm.*, Earl of Carlisle, 90; A. Sidney, *Of the Use and Abuse of Parliaments*, ii. 439.

³ See p. 253 n.

⁴ *Annual Reg.* (1764), 280.

⁵ See chap. xxvi., *Corr. Ap.* 1, 1755.

⁶ *Walpoliana*, 9.

⁷ *Hist. MSS. Comm.*, Earl of Carlisle, 112.

⁸ See the very tardy eulogy of this measure and of the minister in 1759 by Pitt. Walpole, *George II.*, iii. 178.

all property destroyed, the Crown made absolute and parliaments themselves no longer necessary to be called¹."

To the cries thus raised from the mob were joined the violent diatribes of the opposition journals and the whole resources of the factions hostile to Walpole, who now uniting their forces and led by Bolingbroke and Pulteney made one last attack on their common enemy, while many of the ministerial supporters also wavered. The great debate in committee on the project, one of the most memorable in the annals of the House of Commons, took place on March 14 and 15, 1733, amidst a scene of great excitement². Sir Robert Walpole explained his scheme in a lucid and conciliatory speech, and was followed by Sir Philip, who deprecated the unfair and ungenerous reception which the bill had met with and the wrong basis on which the discussion had proceeded. The only question involved in the present debate, he declared, was the prevention of the gross abuses in the tobacco trade by which, not only was the treasury systematically despoiled, but every private consumer, who paid the whole tax, was defrauded, in order to fill the pockets of the fraudulent dealer. Those gentlemen who opposed did not attempt to deny these evils nor argue that the bill would provide no remedy, but merely raised the cry of the constitution and liberty in danger, as if frauds in the collection of the public revenue were part of the constitution and liberty to smuggle included in the national liberties. As to the clamour raised among the people by ill-designing men against the measure, nothing could so soon allay them as its execution, when it would be instantly seen how groundless were the popular fears and how a fund could be collected, without putting any extra tax on a single class or a single honest man in the country. As to the severity of the laws of excise, it was well known that the customs laws, which enabled the officers in certain cases to enter the house of any subject of Great Britain, existed already. These were necessary powers, the abuse of which would always be severely punished. To the charge that a whole army of excise men would be appointed to execute the scheme and enslave the people, he showed that not more than 126 persons would be added to the number of revenue officers. Would the nation be

¹ See also "Excise" as defined in Johnson's *Dictionary* (1755), "A hateful tax levied upon commodities and adjudged not by the common judges of property but wretches hired by those to whom excise is paid."

² *Parl. Hist.* viii. 1287; *Gent. Mag.* iii. 559; Lord Hervey's *Memoirs* (1884), i. 160 sqq.; A. Sidney, *Of the Use and Abuse of Parliaments*, ii. 460 sqq. *Hist. MSS. Comm.*, Earl of Carlisle, 102-11.

enslaved by 150 little excisemen? He answered the complaint that property would be at the mercy of Crown officials by reminding the House that there was an appeal to the judges in Westminster Hall; and in reply to the objection that such revenue cases were to be tried without a jury, while admitting this to be an exception to the fundamental principle laid down in Magna Charta, he pointed out that such exceptions had already been made in numerous instances; that in the Courts of Chancery and Admiralty, for example, there were at that very time no trials by juries and that in revenue cases it was hopeless to retain the ancient method, owing to the well-known partiality of juries for those prosecuted by the Crown. Of this he gave one instance out of many, which fell within his own experience, as law officer of the Crown, when a notorious smuggler was convicted of the charge to the satisfaction of everyone present in court and yet, notwithstanding, was declared by the jury not guilty. The liberties of his country he indeed valued and would defend on occasion, but here they were in no wise menaced, and declamations on this subject were as misleading as they were superfluous.

It was probably on this occasion that a passing reference to his own conduct in Crown prosecutions and to the scrupulous respect for the subject's legal rights and liberties which he had made it a rule to practise, called forth a sudden burst of applause from the House¹.

During the course of the discussion Sir Robert Walpole was compared by his opponents to Empson and Dudley, the notorious extortioners of Henry VII's reign. But the invective fell lightly upon the minister whose historical knowledge, it seemed, did not extend so far, and who could attach no meaning to it till Sir Philip Yorke, who was sitting next to him, enlightened him in a whisper².

Meanwhile, an enormous and hostile concourse of people, brought up by the organisers of the opposition, had assembled at the doors and avenues to the House, who were contemptuously alluded to by Sir Robert, whose nerves were unshaken by these unscrupulous attempts to overawe the proceedings in Parliament, as "sturdy beggars," or in modern phraseology "the unemployed." The motion finally was only carried by a majority of 266 to 205³. On the occasion of the debate on the city petition to be heard by counsel against the bill, on April 10, the citizens attended in

¹ *Annual Register*, vii. 280.

² *Parl. Hist.* viii. 1305.

³ *Parl. Hist.* viii. 1307. Lord Hervey gives 265 to 204, *Mem.* i. 182.

"a train of coaches that reached from Westminster to Temple Bar." Sir Philip again spoke in support of the government but the majority was still further diminished to 214 against 197. "Sir Robert," writes Lord Hervey, "was never less able to disguise his being defeated than this night. He stood some time after the House was up, leaning against the table with his hat pulled over his eyes, some few friends with melancholy countenances around him." On the following day, April 11, he announced in a speech which has been described as "a masterpiece of parliamentary eloquence¹," the withdrawal of the bill, and another heated discussion ensued, the opposition desiring to secure its rejection. On the conclusion of the debate Sir Robert, who refused to escape by a back way, declaring "there was no end of flying from such menaces," was violently abused and hustled by the mob while passing out of the House. At one time a serious catastrophe seemed imminent, but the great minister's supporters gathered round him and made way for him through the rabble in safety.

Subsequently the Attorney-General brought in resolutions to prevent such assaults and riots in future²; and the violence of the opposition soon brought about a reaction, of which proof was given at the general election which now followed immediately, when a large majority placed Walpole in a position of greater power even than before.

This was Sir Philip Yorke's last recorded appearance in the House of Commons. Almost at the same time the two great legal offices of Lord Chancellor and Lord Chief Justice became vacant, one of which, it was certain that he would be chosen to fill.

Meanwhile, his marriage in 1719 had produced a large family of five sons and two daughters, Philip, his eldest son, born December 9, 1720, Charles, born December 30, 1722, Joseph in 1724, John, August 27, 1728, James, March 9, 1730, Elizabeth, in August 1725 and Margaret, March 21, 1733³. One other child at least died young⁴. The sons were all educated at Dr Newcombe's famous school at Hackney⁵, later, with the exception of Joseph, who at an early age entered the army, proceeding to Bene't, afterwards Corpus Christi College, Cambridge. They also had the advantage of a private tutor, Dr Samuel Salter, fellow of the same college, who

¹ By the second Lord Hardwicke in *Walpoliana*.

² Coxe's *Pelham*, i. 9.

³ Collins, *Peerage* (1779), v. 321; G. E. C.'s *Complete Peerage*, under Anson.

⁴ *Pol. State*, xxxvii. 421; *Hist. Reg.* April 7, 1729; II. 11, ff. 23, 112, 168.

⁵ Duke of Grafton, *Autobiography*, 3 n.

had been recommended by the excellent Dr Thomas Herring, then Dean of Rochester, as a good scholar of exemplary character and Whig principles¹. Both parents bestowed great attention on their children's education and Sir Philip found time to keep constantly in touch with his sons². They, on their side, responded eagerly to the care spent upon them and at a very early age obtained a sound knowledge of the classics, of history and of philosophy, and showed a capacity for expressing ideas in good style and good English which would now-a-days appear phenomenal in schoolboys of 12 and 13. The two eldest, Philip and Charles, with another youth, probably the younger David Papillon³, kept up, while at school, a journal called *The Triumvirate*, on the model of the *Spectator*, to which each in turn contributed an essay⁴. They relate their imaginary careers, discuss historical problems, discourse on luxury, death and similar moral themes and express a proper indignation for Atheism and "Romish Doctrines." Occasionally occur verses of merit⁵, and the whole, considering the youth of the contributors, shows intelligence and literary ability of very great promise and precocity. *The Triumvirate* was regularly perused by Lord Hardwicke and the productions of the youthful essayists sometimes criticised and encouraged. Occasionally he would send contributions of his own under the pseudonym of *Paterculus*. As his eldest boy writes, "Were the Author known it would appear surprising to everybody that a Person engaged in the most important Business and the most shining scenes of life, should find leisure or inclination for performances of this Nature, and that He should be able to succeed as well in trifles as he does in Things of the greatest moment."

These contributions include an "Essay on the Chace," on "Grave Stones," on "Education," on the "Government of the Mind." Grave stones he recommends should be erected not at the person's death, when they are inscribed with all kinds of false and rhetorical descriptions of the dead man's deeds and virtues, but at a man's setting out in the world with his name and birthday

¹ II. 250, ff. 1-4. Salter obtained subsequently several preferments from Lord H., including the prebends successively of Gloucester and of Norwich, and was appointed Master of the Charterhouse in 1761; he died in 1778.

² E.g. II. 11, f. 202.

³ p. 51.

⁴ A volume of these essays, whence the passages in the text are taken, in the writing of the young Philip Yorke, is at Wimpole; also II. 3, f. 21. There is, besides, another volume of similar essays styled *The Philosopher*, begun at Cambridge in 1738.

⁵ E.g. the lines written on the death of Queen Caroline, Latin and English, December 3, 1737, by Philip Yorke, contributed to the *Petas Academiae Cantabrigiensis*.

engraven upon it to be filled up by inserting his future good actions. The "shame of seeing it continue long a blank without anything to follow after the day of his birth," would surely stimulate the most sluggish disposition to perform some worthy deed. The subject of "Education," the writer says, has been suggested to him by a "fine and beautiful orchard," where "riding out the other day for the air, my grey mare rambled with me." He notices that the best results are obtained by the skill and care bestowed upon the trees. Without this the good quality of the stock or of the soil availed little, and even brought about a quicker degeneration. So it was with man and education. Nobility of birth, good parts, great estate were, alone, merely further opportunities of indulgence in vice. Education only could turn these advantages to account. But between the young tree and the young man an essential difference had been placed by the Creator. To the man were entrusted alone powers whereby he might co-operate with and assist the cultivating hand. "...How reproachful is it to the reasoning animal, enabled as he is to do so much better for himself, that he will obstinately do worse....Methinks it should be the ambition of youth to become volunteers in learning and not to suffer themselves to be pressed into the service, scarce do duty for a while under the eye of their superior officer and then take the first opportunity to desert." He concludes by praising the design of the authors of *The Triumvirate* and the practice of "thinking and writing in their mother tongue," "an exercise not generally attained in schools where the acquisition of the learned languages is their particular business," but which encourages originality of thought and the study of subjects afterwards useful "in the senate or in the bar, in the pulpit or in common living." Wit and humour are to be cultivated to give pleasure in conversation; above all the impressions of religion are to be struck deep and good habits early introduced, which then soon become a kind of second nature¹.

The essay on the "Government of the Mind," or rather the control of the temper, is eminently characteristic of the writer, whose "great accomplishment," as a very hostile witness writes, "was an evenness of temper and command over his passions, which scarce ever suffered him to be transported into any indiscreet action or intemperate or indecent expression of resentment."² We shall therefore give the whole.

¹ H. 3, f. 21.

² Anon. Corr. in R. Cooksey's *Essays*, 100.

*To Mr Spartacus [Charles Yorke] one of the Authors of
"The Triumvirate."*

Animum rege, qui nisi paret,
Imperat; hunc frenis, hunc tu compesce catena.

HOR. [*Epist. 1. ii. 62.*].

SIR,

There is no lesson more useful for the conduct of Human Life than that which Horace in the motto, prefix'd to this paper, calls the Government of the Mind. Many of the antient Philosophers have treated this subject as a moral virtue, so far as it regards anger or the restraint of that which commonly passeth under the name of passion, and many Divines have enforced it with great energy as a Christian Grace. I have not the vanity to imagine, I can add any [thing] to their copious labours, or the inclination to be tedious in repeating them. My design is to consider it in another light, and by examining into how many particularities the neglect of this discipline runs out, to shew that [it] is the source of the greatest part of those uneasinesses which we either feel in our selves, or communicate to those with whom we converse.

If a man will but give himself the trouble to turn his thoughts inward and attentively reflect upon the operations there, he must be very stupid if he doth not find that most of the indiscretions and false steps that afterwards give him the pain of repentance and self-condemnation, proceed from the want of this wholesome regimen;—the surly look—the peevish answer—the sharp or bitter reflection—the rude behaviour have every one their first conception here, and take their rise from some emotion in the mind which a habit of governing would stifle in the birth. Take a view either of domestic broils or public quarrels, and a little deliberation will soon satisfy you that they are generally derived from this hidden spring, unless where interest is the prize contended for. How ridiculous then is it for a man endued with reason, given to him to rule his whole frame, convinced too of the fatal deviations he is apt to make when that doth not hold the reins, to suffer himself to be run away with by a beast, which might with a little pains be held in. The elegant and judicious author I have cited takes his metaphors from a bit and bridle and with the greatest propriety, since it supposes clearly that reason must be the rider.

How many persons have I known, otherwise not indisposed to goodness, surpriz'd into breaches of the plainest duties for want of

applying this preventive remedy? Hurried into quarrels with their relations and friends with whom it is always essential they should live well, how many mortifying hours of vexation and self-torment have I seen them spend in vain on account of a rude action or unmanly expression, hastily thrown out in a moment, but never to be recall'd? These are some of those foolish persons who create to themselves troubles out the dust—dust of their own raising which one instant of calm thought would have kept down. But this is not all, the want of keeping this guard over the sallies of the mind, doth not only appear in words or actions, but, when indulged in, frequently breaks out in the face, and deforms the man. It is an old observation *Mores animi sequuntur Temperamentum Corporis*; but it is as often true that ebullitions from within work upon the external form and affect the whole cast of the features. I have seen a beautiful lady made ugly by falling into a causeless passion, and a handsome young gentleman quite altered in his look by putting himself into a dumb ill-humour. A little attention would teach us that this is, to a trifle, as much an affront to the company we happen to be in as ill words, and shews ourselves in almost as disagreeable a light. If we would but consider the world about us, a just esteem for others, or that regard for those we converse with, which is called good breeding, would be a constant monitor to the exercise of this dominion over ourselves. What difficulties doth a rude expression or behaviour put them under? When to bear it without animadversion might be called an unmanly tameness, and to resent it, as it deserves, might produce an open and a lasting breach? To lay our superiors under a necessity of using either correction or reproof, is imposing upon them a task uneasy to a good natured man and reproachful to ourselves. I wish anyone who gives way to this kind of ill-conduct, would seriously consider how many enemies and how much disgrace it may probably bring upon him in the event; for he may be sure it will not stop short at little instances, but if not reform'd, will break forth into greater and more interesting consequences. For want of this discipline, and not gaining the habit of suppressing these quick risings of the mind, I knew a Judge¹, of great parts and abilities, and of real good nature and humanity at bottom, lose the affections of the Bar, when his fall from his exalted station made him feel the want of them; chiefly by having sometimes given way to a sharpness of expression upon observing their failures,

¹ No doubt Lord Macclesfield.

without allowing himself time to check the first emotion. I have heard of a General of unquestioned bravery who, from the same fundamental cause, became so insufferable to his men, as to be shot in the back by them in a day of Battle. And I am old enough to remember a great Prelate, from a neglect of this self government, grow so intemperate, as to become a common swearer, to his own infamy and the dishonour of his holy function.

These are terrifying examples, and one would think of force sufficient to make us dread those errors which gave rise to them especially since the methods of correcting them at first will appear so easy. When any of these hasty motions are found rising in the mind, 'tis but to reflect one moment—for what reason?—to what good end? What may be the consequence? This moment will give sufficient time to reason to resume her office, to take the reins in her hand, and check the irregular movement. The operation of this kind of discretion is performed in an instant, but the advantages flowing from it are most durable. Another method of fortifying the outworks of the mind against these attacks is to enure ourselves to a well-manner'd behaviour, placid look, and civil obliging language. These habits becoming familiar to us, do not only conciliate the good opinion of others, but tend to secure ourselves from the surprizes of a contrary carriage. There are two verses in the Proverbs of Solomon which exhibit a strong description of what I am here recommending: Pleasant "words (saith that wise King) are like an honey-comb, sweet to the soul and health to the bones. He that hath no rule over his own spirit is like a city that is broken down and without walls¹."

After I had writ down these reflections, I was musing to myself how I might turn them to some account, when I chanced to cast my eye upon the verses following my motto.

Fingit equum tenera docilem cervice magister
 Ire viam, qua monstret eques; venaticus, ex quo
 Tempore cervinam pellem latravit in aula,
 Militat in silvis catulus. Nunc adhibe puro
 Pectore verba, puer; nunc te melioribus offer.
 Quo semel est imbuta recens servabit odorem
 Testa diu.

These lines naturally led me to consider that young minds, tho' liable to sudden starts and sallies, are yet most susceptible of good impressions, and consequently most capable of learning and improving the lesson which I have been inculcating. This

¹ Proverbs xxv. 28.

immediately determined me to send it to Mr Spartacus for the use of the Triumvirate, of whom I am truly an

Admirer
and Faithful Friend,
PATERCULUS¹.

Sir Philip's marriage and increase of family had necessitated several changes of residence. From 1710, probably immediately after quitting Mr Salkeld's in Brook Street, Holborn, he had occupied chambers in Pump Court, Middle Temple². In 1713 he had joined his cousin, Herbert Jacob, also a barrister, in lodgings at "Mrs Green's in Bishops Head Court in Gray's Inn Lane"³. On his marriage in 1719, he appears to have kept on his chambers and to have taken a house in Lincoln's Inn Fields⁴. The former were given up in 1724, when, probably in order to be nearer the sessions of the Court of Chancery, which were at that time mostly held in the hall of Lincoln's Inn, he migrated from the Middle Temple to Lincoln's Inn on his appointment to the office of Attorney-General. He was admitted to the latter society on July 26, 1724, while still remaining a bencher of the Middle Temple, in which capacity he signed a deed of partition on November 2, 1732⁵, was made Treasurer in 1725, and in 1726 Master of the Library, and was allotted chambers on October 23, 1724, at No. 4 in the Garden Court, Chancery Lane Row, and on January 3, 1727⁶, at No. 4, Serle's Court, now New Square, Lincoln's Inn, one story high on the west side of the staircase. The same year he removed to a house in Red Lion Square⁷, and thence in 1731 to a residence in Arch Row, Lincoln's Inn⁸, where he probably remained till he acquired the lease of Powis House, in Great Ormond Street, in 1737, on being made Lord Chancellor. A home in the country was also absolutely necessary, not only for change and fresh air, but, as Sir Philip found more and more in the future, for a retreat where the cares of public affairs could not follow him. His thoughts turned to Kent and to Dover, his native town. He already possessed landed property in the immediate neighbourhood, inherited from his grandfather, Simon Yorke, and from his mother's family, the Gibbons⁹. To these estates he had frequently added

¹ MS. at Wimpole.

² Wheatley's *London*, iii. 131.

³ H. 11, f. 12.

⁴ Harris, i. 199.

⁵ A. R. Ingpen, K.C., *Master Worsley's Book*, 247.

⁶ Rec. of *Lincoln's Inn*, iii. 269, 270, 276, 282.

⁷ Wheatley's *London*, iii. 155; and ii. 396.

⁸ Harris, i. 386.

⁹ These lands remained till recently in the possession of the Chancellor's descendants.

by later purchases¹, but they were small parcels of land with farms, without proper accommodation and without possibilities of development. He made several attempts to purchase a residential estate in the vicinity of his old home, but without any success². Accordingly, at some time after his marriage, he bought a house—now known as Carshalton House and which is still standing—and grounds at Carshalton, near Croydon, from Sir John Fellows, a governor of the South Sea Company³, and this remained the country residence of the family till the later purchase of Wimpole, and the home to which Sir Philip's children carried back their early recollections.

About the same time, in 1725, Sir Philip purchased from the Trye family the estate of Hardwicke in Gloucestershire, for which he appears to have paid £24,000, buying at 24 years' purchase⁴. He paid a visit to his new property in the summer of that year but never resided, and the estate was probably acquired merely as an investment.

At the threshold of his middle age, then, Sir Philip found in his home, his wife and children, and in the increase of his material prosperity every source of domestic happiness and contentment. In his profession and public career many of the hopes and aspirations with which he had started in life had been already realised. On completing his service as principal law officer of the Crown, he had established a great and enviable reputation. He was without question the leading member of the bar. His parliamentary abilities had made him one of the most influential members of the administration. But it was perhaps his strength of character rather than his intellectual gifts that rendered him so valuable a servant of the state. During these years no speck or flaw could be found in his dealing, and though his rapid success made him a mark for the common charges of avarice and ambition, he gave proof, as will be seen in the following chapter, of a striking disinterestedness and indifference in the race for place and power, viewing the advancement of a subordinate to the highest seat in the law over himself with contentment and equanimity.

¹ E.g. he buys several farms in the neighbourhood of Sandwich 1722 (H. 236, ff. 251-7) and lands of about 200 acres and buildings about the same time, for £7500, of £290 yearly value, at Upton and Eastry (H. 880, f. 24).

² E.g. in 1721, H. 236, ff. 238, 251-267, and H. 237, f. 20.

³ Lysons, *Environs of London*, i. 136; Walford's *Greater London*, ii. 203.

⁴ H. 344, ff. 1-6, 32; H. 11, ff. 90-6; Rudder, *Hist. of Gloucestershire*, 471; *Lords' Journals*, xxii. *passim*; a view of it appears in Atkyn's *Hist. of Gloucestershire*. In 1730 he invested £6000 further in land (B. M. Add. Charters, 44,851).

CORRESPONDENCE

David Collier to the Attorney-General

[H. 236, f. 357.]

Nov. 13, 1724.

SIR PHILLIP YORK,

I make bold to let you know there is one Thomas Ingram that was fore man of the Jury last Sessions at the Old bayley for the County of Middx, and Mr Zeanne and Mr Martin and some more of them that took bribes in on Triell, and vilified your honour by saying you was like a Cronk maker¹, which made more Noise than anything else, and these men will be upon the Jury at the Checker [Exchequer] this terme, and at the Comon please, where you ought Sir Phillip to take notice of them, for they will only serve to corrupt others, who am your unknown Servant and well wisher,

DAVID COLLIER.

Attorney-General to the Earl of Godolphin²

[H. 237, f. 95.]

16th July, 1728.

MY LORD,

I had some time since the honour of a letter from the Duke of Newcastle, inclosing one from your Lordship³ concerning Mr Penrose's cause. The great inclination I have to obey your Lordship's and his Grace's commands on every occasion made me extremely desirous to have served your friend, if I could have done it consistently with the rules of our profession. But upon enquiring into the fact, which is of some standing, I find that altho' I was for Mr Penrose at the commencement of the suit, which began in 1715, yet in 1724, after Sir Clement Wearg's being made Solicitor General & chosen member for Helston, he was taken in and I was left out by Mr Penrose's then agent, upon which (as it usually happens in such cases) the other party applied to me, and I have ever since that time been constantly on that side in every motion and step in the cause, without having been left out by them in any one instance. This made it impossible for me to go back, and be concerned for Mr Penrose at the hearing. Notwithstanding which, I have (out of regard to your Lordship's intercession, which does me too much honour), used my utmost endeavours to prevail with

¹ "Croak, prate, exult over with insult"—Halliwell.

² Francis, second Earl (1678–1766), Groom of the Stole.

³ H. 58, ff. 6, 8.

the other side to consent to my being out of the cause and so that I might not be against Mr Penrose. But Mr Mackworth Praed has insisted in the strongest manner that I, having been deserted by his adversary and engaged on his side, now for almost four years, he has depended on my assistance and neglected other counsel, whom he might have retain'd, and therefore I cannot in justice leave him at the hearing of his cause.

I beg your Lordship's pardon for giving you so long a trouble about an affair of very little consequence to either party, but I do it to prevent any misrepresentation of the case and to demonstrate [to] your Lordship that nothing but necessity should have prevented my complying with your recommendation, being ever with the greatest respect and truth,...

Attorney-General to the Earl of Godolphin

[H. 237, f. 99, written by another hand,
with Sir P.'s corrections.]

July 21st, 1728.

MY LORD,

I had the honour of your Lordship's of the 18th with Mr Penrose's memorial enclosed¹; which is the only occasion of my giving your Lordship this second trouble, for tho', considering the nature of this paper, I should have taken no notice of that alone, yet, as it comes transmitted by your Lordship, you will not wonder if I cannot satisfy myself without endeavouring to justify my conduct to a person of your strict honour, for whom I have the greatest regard.

The only material points aimed at in the paper are to shew—

That Mr Penrose or his solicitor did not desert me, but I deserted him.

That I have since given him my word, that I would not be concerned on either side in this cause.

That I have been let into the secrets of his cause.

The instance produced to prove that I deserted him is, that in Trinity Term 1725, his solicitor attended me with a brief on the petition to the Master of the Rolls about the deeds and writings, and that he was told that the Mackworths had left a brief about two hours before, and his was refused.

This fact is entirely mistaken; for I affirm to your Lordship that no brief was offered to me upon that petition either for

¹ Ff. 96, 98.

Mr Penrose or Mr Mackworth, neither was I of counsel on either side at the hearing of it. I have the Register's minutes now before me; whereby it appears that the only counsel at that hearing were Sir Clement Wearg and Mr Talbot for Mr Penrose and Mr Cowper and Mr Clive for Mr Mackworth.

By this it appears that I was left out by Mr Penrose or his solicitor.

The next instance is that on the Appeal from this Order to my Lord Chancellor, a brief was prepared for me, and I refused it.

It is impossible for me to say whether a brief was prepared or not, but I am very sure it was never offered to me, and therefore, finding myself neglected in these two instances for the sake of a counsel newly taken into the cause I did, as every Gentleman of the Profession would have done in the like case, and agreeably to every day's practice, accept a brief on the other side.

From this time (now above three years ago) I have constantly been of counsel for Mr Mackworth, and I do not remember that Mr Penrose ever apply'd to me again till after Sir Clement Wearg's death¹.

As to giving my word to Mr Penrose that I would not be concerned on either side, the truth of the fact is this. In Easter Term last Mr Penrose came to me, and represented his case much in the same light as he has done in this paper, and added that he had briefs to produce which were prepared for me on all those occasions, in which I was said to have been left out. I then told him that, having been so long for Mr Mackworth, I could not now be against him (he having never left me) but, if the case really was as he represented it, I would be out of the cause.

This I am sure was the effect of what I then said: but when I had enquired into the fact it appeared to be as I have stated it to your Lordship, and as to the briefs (which were soon after laid before me), not one of them (after that on arguing the plea) appeared to have been ever intended for me; for they were either endorsed with the name of Mr Solicitor General (Wearg) only, or his name was blotted out and mine interlined over it, but when that was done did not appear.

By these circumstances I was fully convinc'd that I had not been well used.

As to my being let into the secrets of his cause, I beg leave to

¹ Sir C. Wearg, Solicitor-General 1724, died 1726.

assure your Lordship with the greatest truth that, if I knew one secret of Mr Penrose's cause, I would not upon any terms whatsoever be against him. I hope my character in the Profession is not such as to be thought capable of betraying the secrets of any man's cause to his adversary. But I aver upon my reputation that I know no more of the secrets of his cause than I must necessarily have done, had I been all along of counsel against him, nothing but what appears in the bills and answers which his adversary of course knows, as well as he; and which any man may know who will search the public records of the Court. It is true that I signed his cross bill, but by that I know no more than any other person who will read over the bill upon the file, for nothing but a draft was laid before me, and I do not remember that any deed or original paper relating to his cause was ever shewn me.

As to giving my opinion in writing upon a case stated, there is no secret in that case nor any thing contained in it but what is fully set forth in his bill upon record. But surely the giving an opinion was never thought to be a retainer, or to hinder anyone from being concerned on the other side. It often happens in the beginning of causes of consequence that opinions are taken on different cases stated in writing by both sides from the same counsel. But it never was objected that the counsel who gave such opinions was chargeable with betraying the secrets of one side by being afterwards concerned for the other.

By this time your Lordship is sensible how greatly this case is misrepresented in the paper which was put into your hands. And yet I do not accuse Mr Penrose of wilfully misrepresenting the several parts of it, because, I observe, he admits he was out of Town when some of the most material facts happened, and it is possible that his late solicitor (who appears to have been an ill man and is since, as I am inform'd, run away) may have abused and imposed upon us both.

I have given myself some trouble in this affair, and, I fear, your Lordship much more, for which I heartily beg pardon and pretend to no other excuse but the ambition I have to preserve your Lordship's good opinion, and to shew that I am always with the most perfect respect,

My Lord,

Your Lordship's etc.

I beg your Lordship's pardon for using another hand.

Duchess of Buckingham¹ to the Attorney-General

[H. 237, f. 257.]

[1725.]

SIR,

I sent early this morning to enquire how you did after soe great a fatigue as you suffered yesterday, I cannot help expressing this Way how very sensible I am how much you contributed to the success of that Day, and by which Sr you have not only done a private but indeed a publick good, yet had the Event turn'd in Mr Ward's favour, I should never have thought that an entire ill day in which I had an opertunity of hearing soe much Justice exprest with such Eloquence as yours.

I am ever Sr

Your most humble serv^t.

K. BUCKINGHAM².

J. Cholmondeley³ to Viscount Malpas⁴

[H. 237, f. 238.]

[n. d.]

MY LORD,

As the Attorney General's abilities, integrity and care for his clients are qualities [that] cannot be made up by any other man of his Profession ; I look upon the losing his assistance in my cause as so great a misfortune that I cannot forbear being to the last importunate upon so very material a point, which I really regard almost as the fate of my cause.

I am convinced many whose rank and figure in the world much more deserve his regard than mine can pretend to, must have applied to so great a man and have been refused, since he left that Court⁵; but I am apt to flatter myself that my case may appear so different from the rest that it cannot be resented in case he should appear for me; because in 1728 (about Decr) he was so kind to accept a retainer and promise to attend, unless the Crown business or some other more immdiate affairs prevented him ; and the encouragement I had to hope for that, has made me lose a good advocate (Mr. Reeves), tho' while I hoped for the Attorney General I did not think of him, and he was engaged against me before I came up last year. There is another argument I hope he

¹ Katherine, widow of John Sheffield, first Duke of Buckingham; for the case see H. 800, f. 81.

² See further, ff. 247 sqq.

³ Cousin of Lord Malpas.

⁴ George, Lord Malpas (1703-70), afterwards third Earl of Cholmondeley, Master of the Horse to the Prince of Wales 1728-35. For case of *J. Cholmondeley v. Countess of Oxford*, decided by H. in 1742, see H. 703, f. 167 B.

⁵ The King's Bench is probably meant, the Attorney-General's business being chiefly in the Court of Chancery and House of Lords.

will think of the same consequence as I do ; and then his known zeal for justice will biass him on my part ; that is, my Lord, that this fraud was committed by a gentleman, an intimate friend ; and ...a trustee and neighbour....

I therefore beg your Lordship will yet make one more effort and send this bundle of papers, with a letter to his chambers, and put all these arguments as strong as they can bear to him ; and leave it to his consideration, which I hope will prove favourable....

Your Lordship's most obedient & devoted Servant,

J. CHOLMONDELEY.

[Sent with a covering letter from Lord Malpas to Sir Philip¹.]

Duke of Somerset² to the Attorney-General

[H. 237, f. 164.]

PETTWORTH, february the 13th 17³/₃.

Sr.

The day before I received yours of the 10th³ I had a letter from the Duke of Newcastle. I find hee is inflexible, his colleague must bee now chosen a Governour of the Charter House, therefore as things are thus determined, the Lord Harrington will have a majority of votes, but hee must not flatter himselfe to be elected by the Unanimous Desire of all the Governours. Becaus I doe intend to bee present at the Election, I shall not depart from my Engagement to you. I hope wee shall be more ffortunate the next vacancy. As to this Election all your frifends may act as they pleas, but I will never advance a Complement preferable to the trust reposed in mee as a Governour, for by the oath I have taken as a Governour I have an Incumbent Duty to doe all things to Preserve the Rights and the true interest of this noble Established Charity, and that one of these things are to give my vote to elect a Person, whoe is most capable and will bee ready and willing to bee at our Assemblys, when the affaires of the House doth require such meetings. Experience have shewn the ffaylures in great ministers of Statte that for want of such a sufficient number as those meetings must consist of, the Business have not gone on, to the great Prejudice of this Charitable ffoundation and another Summons have been forced to bee repeated. These grievances and

¹ For other letters of this kind see H. 237, f. 5, and H. 58, f. 2.

² Charles, sixth Duke of Somerset (1662-1748), well known as "the proud Duke," and for his staunch Whiggism ; dismissed by James II from office in 1687 for refusing to introduce the papal Nuncio at St James's ; married Elizabeth, heiress of the Percies ; he had a great regard for Sir P. Y., who had been his counsel and gained his cause in the *Duke of Somerset v. France and Others* (1 Strange, 654). The Duke now desired Sir P. Y.'s appointment as a Governor of the Charterhouse, but the votes of the electors had been already engaged for Lord Harrington, Secretary of State, whom the Attorney-General was naturally unwilling to oppose.

³ Which explained his desire not to compete with Lord Harrington.

many more might have sooner mett with Proper Remedys if I could have prevayled to have Sir Philip Yorke elected a Gover-nour this time but wee must submitt. I shall say noe more upon it at present. I shall repeat the assurances I have given you that your Eminent worth shall for ever engage mee to bee with the utmost sincerity,

Your most ffaithfull obedient Servant,

SOMERSET¹.

Lord Bolingbroke² to the Attorney-General

[H. 237, f. 173.]

LONDON, May 23rd 1733.

SIR,

Give me leave, in a manner the least troublesome to you, to congratulate your Recovery from your late Indisposition. I do it with all the gratitude of a client, and with all the affection, if you permit me to use the terms, of a friend. No man can wish, or augur for you, better than I do. I wish you may, I am sure you will, go on to the utmost extent of that career, which you began so early in life, with the applause of all Parties and the ill will of none. In the midst of that retreat, and quiet to which you have it more than any man in your power to send me, and which have been long the innocent and the sole objects of my ambition, whatever may have been said by those who wanted to excuse their open malice and secret jealousy, the best news I can hear will always be that of your health, prosperity and fame, for I shall always be with the highest esteem, the warmest gratitude and the most sincere affection, Sir, your most obliged and most faithful humble servant,

H. ST J. L. BOLINGBROKE.

¹ See also ff. 158 sqq.

² p. 96.

CHAPTER IX

LORD CHIEF JUSTICE

ON the retirement of Lord King, Sir Philip Yorke's claims to succeed to the Woolsack were undoubted and unquestioned. He had long been the leader of the Bar. The jealousies and disappointments which may have been conceived at first by his seniors, owing to his rapid promotion over their heads, had now disappeared in the general admiration felt for his great talents and learning, and for his high character. He had no rivals and no enemies. He had already, as Solicitor- and Attorney-General, served continuously for nearly 14 years as legal adviser of the Crown. Personal considerations, however, on this occasion, led to the appointment of another and to the postponement for a few years of the opening of Sir Philip's great career in Chancery.

Charles Talbot, the Solicitor-General, with whom Sir Philip had long been connected both professionally and by the bond of sincere friendship, was a man of brilliant ability, and much respected and beloved. "I take them both," wrote William Pulteney, afterwards Lord Bath, "to be men of very great worth, honour and integrity. Their abilities are beyond all dispute!" "Lord Talbot," writes Lord Hervey, "had as clear, separating, distinguishing, subtle and fine parts as ever man had, and Lord Hardwicke's were perhaps less delicate, but no man's were more forcible. No one could make more of a good cause than Lord Hardwicke, and no one so much of a bad one as Lord Talbot. The one had an infinite knowledge, the other infinite ingenuity; they were both excellent, but very different; both amiable in their private characters as well as eminent in their public capacities; both good pleaders as well as upright judges, and both esteemed by all parties, as much for their temper and integrity, as for their knowledge and abilities."²

¹ *Hist. MSS. Com.*, Earl of Mar and Kellie, 540.

² *Memoirs* (1884), i. 285.

Charles Talbot, however, was almost exclusively an equity lawyer, with little knowledge of the Common Law; and he would have found the duties of Chief Justice of the King's Bench, which office would naturally have fallen to him on Sir Philip's promotion to the Woolsack, both difficult and distasteful. He desired ardently to remain in the Court of Chancery.

Sir Philip, on his part, showed no great wish at this time for either of these great employments. It is generally taken for granted that a judgeship is the goal of every lawyer's ambition. But a leading barrister of middle age, with a lucrative practice at the Bar, and with a large and increasing family, often in our own days hesitates to accept a seat on the Bench, a position of greater dignity perhaps, but where the opportunities for providing for domestic exigencies are limited and diminished. Such considerations, moreover, had formerly far greater force, when no retiring pensions were attached to the judicial office, and a judge, after years of toil, passed in the King's service at a very moderate salary, often found himself on his retirement to private life in a situation of distressing poverty. Sir Philip Yorke, accordingly, expresses his doubts to the Duke of Somerset as to the prudence of his accepting the Chief Justiceship so soon in life, in his circumstances, and with his large family¹. The dignity of the Chancellorship, moreover, had the additional disadvantage, from this point of view, of being extremely precarious in its tenure; for it depended on the will of the Sovereign, and the vicissitudes of parties and politics.

It was some time before these important promotions were settled, and the office of Chief Justice was vacant during the Easter and Trinity terms². From a passing allusion by Lord Hardwicke in a letter to a correspondent a short time afterwards, it may be inferred that he was actually offered the Great Seal and that he declined it³. However this may have been, the matter was at last decided entirely in accordance with the public interests, and in a manner honourable to all concerned. Talbot, who in standing though not in age, was considerably his junior, with Sir Philip's full approval and consent, obtained the Great Seal, and during his short tenure of the office, gave proof of great ability. Sir Philip

¹ II. 237, f. 170.

² Strange, 948, 950, 953.

³ II. 237, ff. 305-7, to A. Denton, December 1735, "Permit me to take the freedom of a friend and of one who knows experimentally what it is to decline a higher station and be contented with a lower."

became Lord Chief Justice of the King's Bench, while his claims upon the government were recognised by a peerage and by an augmentation of the salary attached to the office from £2000 to £4000, of which £1000 was taken from the Chancellor's emoluments, the whole of which he insisted should be a permanent increase and not one granted solely in his own favour¹.

He was called to the degree of Serjeant on October 31², and on the same day sworn in Lord Chief Justice before Lord Chancellor King. On November 6 he took the oaths and his seat on the King's Bench³, and on the 24th he was created a peer of Great Britain by the title of Baron Hardwicke of Hardwicke in Gloucestershire, while Lord Talbot's patent was dated December 15⁴. Writing to

¹ p. 159; "So great was the friendship subsisting between them that when it happened that the place of Chief Justice of the Court of King's Bench became vacant, and likewise that of Lord Chancellor, although Sir Philip Yorke, then Attorney-General, was considered as such to be entitled to the Seals in preference to Mr Talbot; yet the latter, having confined himself very early to the practice of the Court of Chancery and not having been much conversant in the practice of the Courts of Common Law, he thought himself not sufficiently qualified to preside in the Court of King's Bench, on which Sir Philip Yorke, being equally competent to preside either in that Court or the Court of Chancery, it was agreed between them that Sir Philip should waive his pretensions in favour of Mr Talbot...and should have two thousand pounds a year added to his salary as Chief Justice which, however, Sir Philip to his honour refused to accept without its being made permanent to the office of Chief Justice of that Court, by being secured to his successors." J. Bentham in Cooksey's *Essays*, 59. The mutual friendship between the two is especially mentioned by Talbot's son when writing to Lord Hardwicke immediately after his father's death, H. 238, f. 6. Cf. Lord Hervey (*Mem.* i. 284), "Lord Hardwicke and Lord Talbot were two as great and eminent lawyers as this country ever bred....Upon the corporal death of my Lord Chief Justice Raymond and the intellectual demise of Lord Chancellor King, these two men, Sir Philip Yorke and Mr Talbot, were destined to succeed them; but the voracious appetite of the law in these days was so keen that these two morsels without any addition were not enough to satisfy these two cormorant stomachs. Here lay the difficulty, Sir Philip Yorke, being first in rank, had certainly a right to the Chancellor's seals; but Mr Talbot, who was an excellent Chancery lawyer and knew nothing of the Common Law, if he was not Chancellor, would be nothing. Yorke, therefore, though fit for both these employments, got the worst, being prevailed upon to accept that of the Lord Chief Justice on the salary being raised from £3000 to £4000 a year for life, and £1000 more paid him out of the Chancellor's salary by Lord Talbot. This was a scheme of Sir Robert Walpole's who, as Homer says of Ulysses, was always fertile in expedients, and thought these two great and able men of too much consequence to lose or disoblige either. Sir Robert communicated this scheme secretly to the Queen, she insinuated it to the King, and the King proposed it to Sir Robert as an act of his own ingenuity and generosity." Before the Hanoverian accession the salary was only £1000. It was then raised to £2000. (See Sir Philip Yorke's notebook, H. 642, f. 2.) At present it is £8000 with a retiring pension.

² *Records of Lincoln's Inn*, iii. 304.

³ H. 655, f. 1.

⁴ "The present Solicitor...will not be made a peer till after Sir Philip, because he is to have the senior title." W. Travers to Simon Yorke, Erthig MSS.; Burrow, *Decisions of the Court of K. B. upon Settlement Cases*, 105. It is probably in allusion to his peerage that Sir Philip writes to Walpole on November 4: "I rely upon that friendship

the Duke of Newcastle on November 13 on the choice of title, he declares that he "cannot think of any to which there seems so little objection as that of Hardwicke¹." On January 17, 1734, he took his seat in the House of Lords, where a man of strength and weight was now wanted even more than in the Commons, to withstand opponents of the calibre of Lords Chesterfield and Carteret and later of Lord Bath².

The attainment of judicial office brings us to the opening of a new period in the career of the great man whose life has already been traced in its earlier stages. For the first time scope was afforded for the full developement of his powers. The whole turn of his mind and intellect had been always preeminently judicial. His great reputation and success were the result of vast and profound learning, of an acute intelligence which penetrated into the heart of a case and of the clear order of ideas which he was able to evolve and to present with so much force of argument and illustration to the Court.

To use his own words: "Good pleading is nothing else but good logic." In none of his legal arguments will be found any instances of appeal to the emotions or the passions. On the contrary, they are based entirely on a logical analysis of the case, and differ little in character, except that the case is not presented with the same fulness, from his later decrees. Talents and intellectual powers such as his, united with a rare strength and independence of character, and with an unrivalled experience of the law in all its branches, marked him out clearly for the career of a great judge; and nowhere else but in the seat of judgment in Westminster Hall could these powers find their full scope or recognition. His great qualities were now for the first time to be seen in their fullest activity and in their most appropriate sphere.

His speeches in the House of Commons were of the same which I have so often experienced that when you consider all the circumstances of this case and how far I have already gone on my part, you will want no arguments to convince you that it is not fit that this matter should receive any delay." H. 237, f. 215.

¹ N. 4, f. 23.

² On the subject of these appointments the second Lord Hardwicke adds the following: "N.B. If any of the family besides myself shall hereafter review these papers, it will strike them as unaccountable that no more letters remain of what passed about the Chief Justiceship and Great Seal after Lord Raymond's death. It is probable that my father must have destroyed them." H. 237, f. 172. But the matter was probably settled principally by personal conference, as on the later occasion in 1737, for Sir Robert was a bad correspondent. Till Lord Hardwicke's acceptance of the Great Seal, however, his correspondence is very scanty, and appears not to have been systematically preserved.

character as his legal arguments. They were "unsullied by false ornaments," we are told by his sons, "declamatory flourishes or personal invectives," and characterised by a cold, forcible and judicial marshalling of facts and by clear analysis. "He had a method and arrangement in his topics, which gradually interested, enlightened and convinced¹." There was no attempt to move his audience through their feelings. His whole effort was to compel their reason, and throughout his career he ever felt and frequently expressed, perhaps unduly, a contempt for the more effective arts of political rhetoric.

In the House of Commons he had quickly acquired a leading and influential position. But his whole talent and genius were far more adapted to the gravity and decorum of the House of Lords. No one was ever destined to exercise a greater influence on that assembly. As Speaker for twenty years without intermission, he presided over its debates, directed its actions and managed the course of business with dignity and wisdom, with unruffled temper and composure and with consummate tact and expedition². He led the Whig party even when the first minister of the Crown was present, and his supremacy, while it was never asserted by himself, was never questioned by others. He inspired confidence and respect among even the most bitter opponents of the government. He upheld the rights and privileges of the peers and resisted successfully hasty and ill-considered legislation projected in the lower House by panic or party faction. He fearlessly opposed popular demands which he believed to be fatal to the peace and prosperity of the nation, and yet knew when to yield to the ignorance and prejudices of the times. He initiated and carried by his influence, in spite of violent antagonism and hostility, some great legislative enactments which had far-reaching results upon the national happiness and prosperity. By the exercise of constant tact and patience, he moderated the feelings of irritation constantly arising between the governing families and the Hanoverian sovereign, and did much to render the existing government possible and enduring. He pierced with his keen intelligence the misrepresentations and deceptions of the obstructors of good order and national security, and gifted to a high degree with the rarer and graver kind of restrained eloquence, he often touched with a firm hand the great and inspiring notes of

¹ *Annual Reg.* (1764), 282-3; cf. Lord Chesterfield, whose own oratory was of a different kind. "He was an agreeable, eloquent speaker in parliament, but not without some little tincture of the pleader."

² *Ib.* p. 229.

loyalty, religion, patriotism and governance. The outward man reflected the mind and character within; it was distinguished by features which, according to an anonymous and very hostile witness, marked him as one of the "handsomest men of the age¹," and which retained "the appearance and vivacity of youth till the last year of his life," by a commanding but gracious and kindly presence and a voice "peculiarly clear and harmonious and even loud and strong for the greater part of his time²."

As Lord Chief Justice, though he held the office for little more than three years, he was afterwards remembered as one of the most remarkable of the many great judges of the Common Law who have presided in the King's Bench³, and his name was not eclipsed even by Lord Mansfield, his own disciple, who, after an interval of a few years, succeeded him, and during whose prolonged and brilliant administration developments far more extensive and fruitful in results were effected in the Common Law than were possible under Lord Hardwicke.

It happened, however, that during Lord Hardwicke's short tenure of the office, several cases of great importance and interest came before him in the King's Bench⁴. One of the most celebrated was that of *Middleton v. Croft*, which involved the great question of the jurisdiction of the spiritual courts over laymen. The Vicar-General, or Chancellor, of the Bishop of Hereford had summoned the plaintiffs to answer in his Court for the offence of marrying without banns or license, clandestinely in their own dwelling house, who replied that the offence was a temporal one, only cognisable in the ordinary Courts of law. The matter, after having been several times argued previously, came finally before the King's Bench on November 17, 1736, when Lord Hardwicke, after "deliberating the case very maturely," delivered the opinion of the Court in a long judgment, dealing mainly with the powers of

¹ R. Cooksey's *Essays*, 100.

² *Annual Reg.* (1764), 282-3.

³ According to Lord Eldon, Lord Thurlow is reported to have considered Lord Hardwicke more able as Chief Justice of the King's Bench than as Lord Chancellor, but this was evidently a hasty *obiter dictum*; J. Nicholls, *Recollections* (1822), ii. 119.

⁴ His judicial notes as Lord Chief Justice, H. 680-696; written judgments, H. 851; other MS. reports, H. 651-658, and H. 662; appeals to the Lords, H. 803-805; Privy Council, H. 868, ff. 85 sqq.; circuit charges, H. 767, ff. 75 sqq. Printed Reports: Ridgeway; Leach, *Modern*, vii.; Peere Williams, iii.; Annaly; Cunningham; Strange, ii.; Barnardiston, ii.; *Sessions Cases*; Andrews, 85, 104. Sir J. Burrow, *Decisions of the Court of King's Bench upon Settlement Cases* (1768). According to Hargrave, Lord Annaly's Reports "were revised by Lord Chancellor Hardwicke and approved of by Mr Charles Yorke, who advised the bookseller to print them." A case of no great interest, tried by Lord Hardwicke as Chief Justice, is in *State Trials*, xvii. 845.

Convocation and the binding force of the Canon Law. The first question propounded was whether lay persons were punishable in a spiritual Court for ecclesiastical offences by virtue of the Canons of 1604. Lord Hardwicke declared that they were not, inasmuch as the Canons had never been confirmed by Parliament, without which neither the enactments of Convocation, nor those of the Canon Law had any power over the laity. He declined to base any opinion upon the nature of the councils in the British, Saxon or early Norman times. Their nature and composition, the manner in which they were elected, were unknown. Later the councils were disturbed by the legatine authority "which arose merely by papal usurpation." He based his judgment on the general nature and fundamental principles of the constitution, Acts of Parliament and the resolutions and judicial opinions in the Books.

To cite authorities to prove that no new laws could be made to bind the whole people but by the King with the advice and consent of both Houses of Parliament would be "to prove that it was now day." He therefore only referred to the parliament roll 2 Henry V, Par. 22 No. 10 and the Case of Proclamations 12 Rep. 74 [Coke]. The argument put forward by the civil lawyers to overcome this strong position, that the parson represented the parish and the voters of the parish, and that Convocation thus represented to some degree the people, he at once demolished, and proceeded to prove by several illustrations and by dealing exhaustively with the large number of cases and precedents on both sides that Convocation, since the Reformation at least, had never ventured on legislation. "The constant uniform practice ever since the Reformation (for there is no occasion to go farther back) has been that when any material ordinances or regulations have been made to bind the laity as well as clergy in matters purely ecclesiastical, they have been either enacted or confirmed by Parliament; of this proposition the several acts of uniformity are so many proofs; for by these the whole doctrine and worship, the very rites and ceremonies of the Church and the literal form of public prayers are prescribed and established; and it is plain from the several preambles of these acts, that though the matters were first considered and approved in Convocation, that the members of that House were looked upon only as an assembly of learned men fit to propose such regulations, but not to give them their force."

It being established that lay persons were not bound by those Canons *proprio vigore*, the second point arose whether the spiritual

Court had jurisdiction against them by the ancient Canon Law received and allowed in England. This was decided in the affirmative, and "if it be demanded what Canons and Constitutions, synodal and provincial, are yet in force within this realm, I answer that it is resolved and enacted by the authority of Parliament¹, that such as have been allowed by general consent and custom within the realm, and are not contrariant or repugnant to the laws, statutes and customs of the realm, nor to the damage, nor hurt of the King's prerogative, are still in force within this realm, as the King's ecclesiastical Canons of the same....Without this common consent and allowance, the Canons extend to the clergy only; and when they shall bind the laity, can be discovered only by this rule."

In the third place, there could be no doubt that the Canon prohibiting clandestine marriages was one of those received by custom so as to be binding on the laity, for it had been confirmed by the secular tribunals which had declared that offenders might be cited before the spiritual Court, by the Rubric which by Act of Parliament had become law, by successive acts of uniformity, and by the statute 13 & 14 Charles II, c. 4.

A further technical question arose from the Act of Parliament 7 & 8 Will. III, c. 35, which imposed fines on those contracting clandestine marriages, as to whether this Act did not supersede the Canon Law according to the legal maxim *Leges posteriores priores contrarias abrogant*; but it was laid down by Lord Hardwicke here that an Act of Parliament in the affirmative, imposing new penalties, does not repeal former Acts without such negative words as show a manifest design so to do.

He concluded by drawing attention to the irregular and unlawful proceedings which had been the origin of this case, which in later years were to occupy so much of his attention, and which were finally suppressed by a great measure of reform prepared and carried through Parliament by himself. "The evil of clandestine marriages is one of the growing evils of these times, and productive of many calamities and grievances to the community, and therefore we have thought it our duty not to weaken any power whereby it may be reformed and seasonably punished."

The plaintiffs gained their case as to the alleged offence of marrying between the hours of one and eight in the morning since no law, except the Canons of 1604, could be found to support that part of the charge, but for marrying without banns or license,

¹ 13 Charles II, c. 12, *Statutes at Large*, viii. 20.

in a private house, the action of the spiritual Court was upheld¹.

*Stoughton v. Reynolds*² was another case involving incidentally the authority of the Canons of 1604. The defendant, the vicar of All Saints, Northampton, had refused to admit the plaintiff to office as churchwarden or to obey the mandamus issued upon him and, at a disorderly assembly of the vestry, had attempted to adjourn the meeting to prevent the plaintiff's election, which, however, was carried by those that remained. He had further denied that the plaintiff was properly elected and obtained the election of another candidate the next day. The Court gave judgment for the plaintiff and Lord Hardwicke declared it a settled point that the Canons of 1604, which had been mentioned by counsel, could not control custom or Common Law. He decided that the clergyman had no inherent right to preside, which right lay in the whole assembly which was one of equals, and declared the adjournment of the vestry by the vicar and one churchwarden illegal.

The great question of parliamentary privilege, with which the judges were always very loath to meddle, came up before Lord Hardwicke in *Holiday and others v. Pitt* on May 17, 1734³. The defendant complained that he, a member of the House of Commons, had been arrested two days after the dissolution of Parliament. The matter was considered of great importance and, there being no precedent for claiming privilege in this manner, the case was adjourned for argument before all the judges. On May 27, Lord Hardwicke with their concurrence declared the arrest clearly illegal, two days not being sufficient "ad propria redeundo"; at the same time he refused to define the exact term to which the privilege was limited. Great doubt, however, he said, had arisen among the judges as to whether Colonel Pitt could

¹ The judge's celebrated and learned argument in this case, of which the text gives only a short abstract, will be found at length in: Ridgeway, *Reports*, 109-134; 2 Atkyns, 650-675; Andrews, 57; Annaly, 57, 326; Cunningham, 55-64, and 114-127; 2 Strange, 1056, and in the following MSS.: H. 658, ff. 89B-103A; H. 851, ff. 183, and 180; H. 655, ff. 90-6; H. 662, f. 2; H. 691, ff. 73 sqq.; H. 693, f. 64; H. 656, f. 41B. For other cases connected with the spiritual courts decided by Lord Hardwicke as Chief Justice see *Chapman v. Bilson*, H. 653, ff. 109B, and 130, brawling in church; H. 655, f. 14, mandamus to the prerogative court of Canterbury to grant administration of Lord Suffolk's will; f. 39B, canon law and licensing by bishops of schoolmasters.

² Annaly, 274; H. 658, f. 41B; 2 Strange, 1045.

³ Cunningham, 16, 21 note; Leach, *Modern*, vii. 225; Annaly, 28, 37; Ridgeway, 91; H. 655, ff. 55, 119; H. 851, f. 153, and f. 165, where there is a statement by Lord Hardwicke concerning the proceedings and difficulties in this case; and cf. Hallam, *Con. Hist.* ii. 427, ch. xvi.

be discharged without a writ of privilege (which involved special difficulties) upon affidavit by motion of the Court, and a decision was therefore deferred till the next term. Meanwhile a petition to the Lord Chancellor, who appeared very unwilling to commit himself "in so untrdden a path as this," met with no success and the point was left to the King's Bench; when the Chief Justice, on the last day of the next Trinity term, after going into the question in all its bearings, allowed the motion with the support of all but two of the judges, and discharged the defendant. He added, however, with great caution, that he "desired it may be understood that we do not determine that the Court is bound in every instance of this kind."

In *Rex v. Poole*, 7 George II, he repeated the rule, which he supported consistently through his whole legal career, concerning the rights and duties of juries. In this case the jury, contrary to the direction of the judge, had given a verdict finding the Mayor of Liverpool to have been unduly elected. The Chief Justice now ordered a new trial and declared "the thing that governs greatly in this determination is, that the point of law is not to be determined by juries. Juries have a power by law to determine matters of fact only, and it is of the greatest consequence to the law of England and to the subject, that these powers of the judge and jury be kept distinct; that the judge determine the law and the jury the fact, and if ever they come to be confounded, it will prove the confusion and destruction of the law of England!"¹

In *Rex v. Bray*, Hilary 1736, one of the last cases decided by Lord Hardwicke in the King's Bench, he delivered an important opinion on the subject of the evidence of an interested witness, drawing a clear distinction between his competence and his credit. The former should be allowed by the Court, while to the latter would be attributed its proper weight and value during his examination and the course of the trial. "There is a distinction between what will take away the competency of a witness and what is matter of challenge to a juror, because a juror must stand absolutely indifferent as he stands unsworn, but a witness need not be so; and the reason is because you may make the objection to his credit, but if a juror be once sworn, he stands equally a juror with the rest." He concluded by saying: "For my own part,

¹ Cunningham, 16; Annaly, 23; see above, p. 86 and below in the Wilkes case, chap. xxxii.

whenever an objection of this sort is made at *Nisi Prius* before me, I am always inclined to restrain it to the credit, rather than the competency of the witness, unless it is like to introduce great perjury, because it tends to let in light to the cause, and there may be still an objection made to his competency." This opinion, which was not in accordance with some precedents, has ever since been recognised as a fundamental principle in the law of evidence¹, and the doctrine has been carried in later times very much further, almost every person now being considered a competent witness.

An opportunity was afforded the Chief Justice in *Rex v. Luckup (sic)* of administering the law against gambling, the suppression of which he had always much at heart². According to a very severe measure passed in the ninth year of Queen Anne, c. 14, which appears, like many other well-intentioned acts of the legislature, never to have been executed, "If the party shall win at any one time above the sum of £10, tho' without any deceit, yet he shall forfeit five times the value," while "if he won ever so little deceitfully, then he shall be rendered and deemed infamous, suffer such corporal [*i.e.* personal] punishment as in the cases of wilful perjury, and likewise lose five times the value so won." In the present case it was complained that the defendant won from the prosecutor Perkins "at a game on the cards called Pickett at one time above the sum of £10, viz. £420, by drawing him in to Bet on the side of Mr Warren, who played against the defendant," and an information was sought against the latter and obtained from the Court.

The Lord Chief Justice: "This statute has slept, I think ever since it was made, but I am glad to find that people now begin to awake and to give it its due influence; and because I apprehend that persons have been deterred from putting this act into force from a false notion of honour, which has hitherto got the better of the law, I will take this opportunity to declare that the greatest honour is to comply with the laws and to seek after such remedies as it recommends and approves of." He added: "Although it appears that the Petitioner is likewise a gamester himself, yet that does not alter the case, and I am glad to find they are falling out among themselves, by which I hope this trade, which is now supported on false notions of honour, will soon be destroyed³."

¹ Annaly, 358; cf. *Barker v. Dixie*, in which he declared illegal the evidence of a wife for or against her husband, in order "to preserve the peace of families." H. 658, f. 33; Annaly, 264; *Gent. Mag.* (1736), 354. ² See chap. xx.

³ H. 653, f. 52; also in Lord Hardwicke's Note-Book, H. 693, ff. 70*ii*, 80, and

The state of public morality, the condition of society and of family life and the domestic policy of the country were considerations present frequently in his mind in giving judgments, and had some influence upon it, whenever the law was not already fixed or precedents were not conclusive. In the case of the *King v. Robarts*, Michaelmas 1734, the defendant had published a paragraph in a newspaper relating to a proceeding in the King's Bench and accusing the Recorder of Warwick of falsifying entries in the public records. Lord Hardwicke pronounced this a libel and said that it was not necessary to determine whether it reflected on public administration or not. A libel against a private person was criminal and properly punishable by a criminal information. He added: "It is incumbent on the Court to take care that if newswriters will take upon them to publish the proceedings of the Court, they do it with respect to truth and not to gratify any particular turn; otherwise the determination here would be only made handles for men to abuse their neighbours with....All libels in the eye of the law tend to a breach of the peace, as they may incite the party injured to redress himself by his own hands without applying for a legal remedy¹."

About the year 1735 or 1736, the poet Richard Savage was prosecuted before the King's Bench on a charge of obscenity, contained in a poem called *The Progress of a Divine*, published in 1735. A dispute, which attracted great attention in society, had arisen between Lord Chancellor Talbot and Edmund Gibson, Bishop of London, concerning the appointment to the See of Gloucester, and in his poem Savage, taking the side of the former, described the career of a "profligate priest" in his rise to "the highest preferments," and insinuated that to such men the patronage of the Bishop of London was extended. Lord Hardwicke, however,

H. 694, f. 22 b; *Statutes at Large*, xii. 177; for further proceedings in this case, H. 653, f. 98. The act was subsequently enforced; see Wade, *British Chronology*, June 4, 1742.

¹ H. 656, f. 2; Cunningham, 94; see also H. 658, f. 104, and Annaly, 339, *Carpenter v. Farrant*, where Lord Hardwicke appears by no means inclined to restrict libel in cases between private persons, and see in Wilkes' case below, chap. xxxii. For other cases of special interest see *Rex v. Burridge*, 1735, in which a long and closely reasoned judgment upon the responsibility of a person who had assisted the escape of a felon was delivered by Lord Hardwicke, *Sessions Cases*, ii. 264; 3 Peere Williams (4th ed.), 439-504, printed verbatim from H. 851, f. 237, H. 653, f. 34; Wallace's *Reporters*, 312; and *Rex v. Francis*, H. 657, f. 12; Annaly, 113; Cunningham, 165; 2 Strange, 1015; H. 653, f. 74; H. 851, f. 288. The long and well-reasoned judgment in *Kent v. Kent*, an appeal from the King's Bench in Ireland, may also be specially noticed, H. 851, ff. 81-91; also Leach, vii. 187; Annaly, 50; Cunningham, 44; 2 Strange, 971.

though he could have had no sympathy with the theme, acquitted the prisoner on the ground that the passages objected to were not written for the encouragement, but for the discouragement, of vice¹.

It was, perhaps, on this occasion that Savage wrote the lines with which he inaugurates his poem to "A Character."

"Fair Truth, in courts where Justice should preside
Alike the Judge and advocate would guide;
And these would vie each dubious point to clear
To stop the widow's and the orphan's tear;
Were all, like Yorke, of delicate address,
Strength to discuss and sweetness to express,
Learn'd, just, polite, born every heart to gain,
Like Cummins² mild, like Fortescue³ humane,
All-eloquent of truth, divinely known
So deep, so clear, all science is his own."

The force of the eulogy may, however, be thought a little impaired by the fact that the verses were written to celebrate one judge who had exonerated the writer from the charge of obscenity and to vilify another, Sir Francis Page, who had condemned him for murder.

The vast sums raised by taxation for the maintenance of paupers and vagrants and the ill manner in which they were employed, together with the waste of money in litigation in settlement cases were frequently the subject of Lord Hardwicke's observations⁴. In one of these, *Rex v. Inhabitants of Preston*, 1736, the Chief Justice discussed the question of the appeal in criminal cases which has now recently—with what wisdom remains to be seen—been conceded. He pointed out that in many instances the prisoner on trial for a criminal offence had not the same advantages as the defendant in cases which only concerned property, a distinction which, though it appeared unjust, was necessary in order to execute the law. "This sounds very harsh but...I daresay that nobody had any apprehension that a bill of exceptions would lie in a *capital* case. If it could, we should have it from every prisoner at the Old Bailey, and very few criminals would have

¹ According to Johnson, Lord H. dismissed the case "with encomiums upon the purity and excellency of Mr Savage's writings," *Life of Savage*. But no account of the trial appears elsewhere; it is not in the printed legal reports or among Lord Hardwicke's notebooks or MSS., or in the Dogget Book K.B. crown side, or in the *Gent. Mag.*, and it is not improbable that Lord H.'s "encomiums" were an idle boast of Savage, too easily credited by Johnson.

² Sir John Comyns, Justice of the Common Pleas, and in 1738 Chief Baron of the Exchequer, d. 1740.

³ William Fortescue (1687-1749); Justice of the Common Pleas 1738 and M. R. 1741.

⁴ *Rex v. Hix*, H. 653, f. 46B.

failed to attempt it for the sake of the delay with which it would be attended." He took the point to be settled, while at the same time, he knew of no case in which it had been judicially decided, and recalled one, that of Mist for libel, in which he had himself been counsel, when, to avoid a decision, he had agreed to the withdrawal of a juror¹.

One of the most essential attributes of the law, in Lord Hardwicke's view, was certainty, without which law could only be a fluctuating opinion, incapable of inspiring respect or exacting obedience. Hence the extreme value of precedents, not only of decisions but of practice, and the great peril involved in over-setting them, even when they appeared to fail in satisfying the reason in individual cases. In *Shergold v. Hollway*, a case in which a magistrate had issued a warrant to compel payment of wages, he said: "If this point stood singly on the words of the statute 5 Elizabeth and it was *res integra*, I should much doubt whether the Justice of Peace, even at their Sessions, has any such power....But so long and a continued practice of the Justices to exercise this power and without any resolution to the contrary, but a general allowance thereof, must now be taken to be a kind of exposition of the act; and should [it] be now determined [to] the contrary, it would overturn a multitude of cases which have been already determined... ; therefore it is now too late to doubt but that a single Justice of the Peace has no [*i.e.* has] power to enforce the payment of wages²."

It was equally essential that different judges in different courts should not pronounce discordant and varying opinions. "It is remarkable," writes Daines Barrington, "in the Reports of cases determined soon after the Revolution that the judges continually differed in opinion³." An example of this kind occurred in *Lumley v. Palmer*⁴, an action against an acceptor of a bill of exchange, the acceptance having been only a verbal one. It was tried before Lord Hardwicke at the Guildhall, who declared the verbal acceptance good. Subsequently, however, Chief Justice Eyre of the Common Pleas, having lately given a contrary ruling

¹ Burrow, *Decisions on Settlement Cases*, i. 80; *Sessions Cases*, ii. 254; 2 Strange, 1040; also Stephen, *Hist. of the Criminal Law*, i. 308.

² H. 653, f. 4v; 2 Strange, 1002; *Sessions Cases*, ii. 100; also *Rex v. Lloyd*, II. 851, f. 26; Cunningham, 84, 133; 2 Barnardiston, 302, 310, 338, 466; 2 Strange, 996.

³ *Observations on the Statutes*, 558 note.

⁴ Strange, 1000; 7 Leach, 216; Annaly, 74; Cunningham, 136; Ridgeway, 72; H. 680, f. 86; H. 691, f. 49; H. 692, ff. 47, 59.

in *Rex v. Meggott*, a new trial was moved for in the King's Bench, when the judgment of Lord Hardwicke was confirmed. "It was much to be wished," he said, that "the Courts of Westminster Hall were more uniform in their resolutions, especially in cases which occur so often and which are of such universal concern"; and he afterwards informed the Court that he had spoken privately with Chief Justice Eyre, and that the latter had changed his opinion and agreed with the judgment.

It was extremely rare that an appeal was made from his own decisions. In one case, that of *King v. Gibson* at the Guildhall Sessions, in which Lord Hardwicke had convicted the prisoner of forgery, a new trial was moved for in the King's Bench, but the Chief Justice having given reasons for his judgment, leave was refused¹. There is no record of the reversal of any one of his judgments. In the case of *Kynaston v. Mayor etc. of Shrewsbury*, which came several times before the Court during the years 1734-7, and in which the judgment of the King's Bench, which he pronounced, was set aside by the House of Lords, his opinion was not overruled but followed. The plaintiff had obtained a verdict against the Mayor and other officials of Shrewsbury for depriving him in an irregular manner of his aldermanship, but the jury, having through his own neglect omitted to inquire into the question of damages, there could be no judgment for them. The plaintiff sought to remedy the defect by a writ of inquiry, which was refused by Lord Hardwicke, who pointed out that the proper procedure must be by appeal for a fresh trial. This was accordingly done, and the House of Lords supplied the remedy, setting aside the former judgment and ordering a writ of *venire facias de novo*².

Besides the judicial duties attached to his great office, as supreme judge of the Common Law in the King's Bench, the Chief Justice, in addition to hearing appeals in the House of Lords with the Lord Chancellor and occasional sittings in Courts such as that of the Duchy of Lancaster³, was called upon to preside at the Guildhall Sessions. Some important cases came before him there, such as that of *Spencer v. Franco*, in which the difficult question of the actual date of the beginning and end of a war had to be considered⁴.

¹ 7 Leach, 205.

² 7 Leach, 201; 2 Strange, 1051; Annaly, 147, 295, 377; 2 Barnardiston, 394; and for a further stage, Andrews, 85, 104.

³ Gent. Mag. (1735), 330.

⁴ H. 696, f. 26; printed in Harris, i. 328.

But often the matters of dispute were trivial in character. There is a long distance to be travelled for instance between *Middleton v. Croft* and *Mercer v. Roberts*, at the Guildhall Sessions in 1734. The latter case arose out of a contention between two persons concerning their skill in arithmetic, when one Harvey "laid" the plaintiff four guineas that he did not resolve this question: "If $5\frac{1}{4}d.$ was divided between 10 men, what each man's share would come to." In the event, the defendant, the holder of the stakes, refused to hand over the money to the successful mathematician on the ground apparently that it was impossible to prove the accuracy of his calculations, and hence the appeal to the law¹.

A great part of the Chief Justice's attention was occupied with criminal business, both in London and on circuit. This was a period marked by great popular excesses, by a defiance of authority, and by a general outbreak of crimes of violence and brutality, which gave considerable cause for anxiety to the government. Serious disturbances broke out in 1736 in consequence of the "Gin Act." In the same year there was a dangerous riot at Spitalfields, owing to the immigration of Irish harvesters; and in the west there were popular risings to prevent the exportation of corn. At Edinburgh Captain Porteous was murdered by the people amidst great tumults and disorder, while the authorities were powerless to protect him².

The Common Law, as it stood after the Revolution, was quite insufficient to cope with the various kinds of lawlessness and attacks upon property, which became more prominent as the trade and prosperity of the country increased³; and to deal with the necessities of the moment, statute after statute was passed by the legislature, adding to the list of felonies and increasing the severity of the punishments. According to Blackstone, no less than 160 offences were declared by Act of Parliament to be felonies⁴. Sheep stealing was made a felony without benefit of clergy in 1741 and 1742, forgery by several statutes of George II's reign, fraudulent bankruptcy in 1732, and by 6 George II, c. 27, death was decreed for maliciously cutting hopbinds⁵.

¹ H. 680, f. 114.

² Coxe's *Walpole*, iii. 348, 358, 360; *Parl. Hist.* ix. 1281; Lord Hervey's *Memoirs*, ii. 308; and below, p. 152.

³ Stephen, *Hist. of Criminal Law*, i. 468 sqq.; ii. 216; iii. 189, 230.

⁴ *Comm.* iv. 18.

⁵ Stephen, iii. 191. In 1741 a man was pressed to death for refusing to plead, but this was probably the last instance of the infliction of this penalty. In 1735 a woman was burnt alive for poisoning her husband (*Gent. Mag.* v. 498). A case of witchcraft

But, as Sir James Stephen has pointed out, the large number of offences created is alone no proper test of the harshness of the law. In practice its severity was greatly mitigated. The death penalty was seldom inflicted, but was generally exchanged for one of transportation¹, though the punishment for what would now perhaps be considered lesser crimes remained exceedingly severe, Lord Hardwicke, for instance, on one occasion sentencing a man to seven years' transportation for stealing a cow worth 40 shillings². Moreover, the fact that single offences were added to the list one by one, and that there was no general and sweeping extension of the criminal code, shows that the administration did not incline to wanton cruelty or tyranny, but was driven to adopt the only measures at that time in its power for the repression of outrage and lawlessness. The punishment of crime had scarcely been considered as a whole in all its bearings, moral and social, or with regard to its ultimate and more important consequences. While, however, the crudity of the criminal law and the brutality of its punishments must shock modern sentiment, it must be remembered that it was largely with brutes that the law had then to deal, and with those who could not be deterred from committing their brutal crimes but by punishments appealing to their brutal nature. The lenient and discriminating criminal code of our own days would not have availed in those rough times to suppress the general spirit of brutality and violence. An illustration of this spirit is afforded by a case which came before Lord Hardwicke on July 5, 1736³, when two men, Baylis and Reynolds, having been implicated in a turnpike riot and having incurred the penalties of the Black Act, were found guilty and condemned to death. Baylis was respite, but the following frightful details concerning the execution of the other are related in the *Gentleman's Magazine*, without a word of horror, indignation or even comment⁴.

"Monday 26th [July 1736] one, Reynolds,...was hanged at Tyburn. He was cut down by the executioner as usual, but as the coffin was fastening, he thrust back the lid, upon which the

came before Lord H. in 1734 at Buckingham (H. 689, f. 1, printed in Harris, i. 281), but witchcraft ceased to be a felony in 1736, while he was still Chief Justice.

¹ Stephen, i. 471, and Fitzsimmons, *Free and Candid Disquisitions on the Laws* (1751), 41, "No instance, I believe, can be produced, at least of late years, where any man has actually suffered at Tyburn for the first offence, except in case of Murder."

² H. 688, f. 10.

³ Annals, 291; H. 658, f. 57 B, and H.'s notebook, H. 687, f. 64.

⁴ vi. 422, and see *passim* in further years in the *Mag.*, where abound accounts of crimes of violence.

executioner would have tied him up again, but the mob prevented it, and carried him to a house where he vomited three pints of blood, but on giving him a glass of wine, he died."

Often, too, the victims of the severities of the law themselves displayed on the scaffold an indifference which seems to us strange and unaccountable. The little importance attached to human life and human suffering must be regarded therefore not as a sign of the brutality of the law but of the general spirit and civilization of the period. In our own more fortunate and settled times the sense of security is so complete that the more brutal crimes can now be viewed without fear, as incidents of curious and dramatic interest only, much in the same way that rugged and mountainous scenery, which for travellers of the 18th century presented only terrors, now affords enjoyment as picturesque and romantic. But one cannot read far into the records of these times without being convinced that the preservation of life and property and the suppression of disorder and violence among the populace were the principal and most important tasks which confronted the Hanoverian statesmen; and it is one of their chief glories that now were firmly laid the strong foundations of social order upon which in after years was built the great edifice of empire and progressive well-being.

Besides, however, repressive legislation, such as we have been considering other measures were taken by the administration to raise the condition of the people. In 1736, the "Gin Act," prohibiting altogether the consumption of the spirit, largely at that time responsible for the vice and degradation of the lower orders¹, became law, through the efforts of Sir Joseph Jekyll, the Master of the Rolls. Its good effects, however, were rendered nugatory by evasion, while the author of the enactment had to be guarded in his house by a force of soldiers against the fury of the mob². On July 14, 1735, a proclamation was issued for putting in force the laws against acts of violence and robbery in the streets of London, increasing the rewards for apprehending offenders and offering pardons to informers³; and in later years, the prevalence of crime and the general insecurity in the metropolis continued to occupy

¹ E.g. "We hear that a strong-water shop was lately opened in Southwark with this inscription on the sign: Drunk for a 1d., Dead drunk for 2d., Clean straw for nothing," quoted by T. Wright, *England under the House of Hanover*, i. 159, from the *Old Whig*, February 26, 1736.

² Lord Hervey's *Memoirs*, ii. 314.

³ *Gent. Mag.* v. 386.

Lord Hardwicke's attention and was the subject of a correspondence with Henry Fielding, the novelist, justice of the peace for Westminster and chairman of the Quarter Sessions¹.

The lawless condition also of the country was brought forcibly to the notice of the Chief Justice as judge on circuit². The county of Cornwall seems to have been for some time in a state of great disorder. Frequent riots occurred, and the country gentry and magistrates became alarmed at the growing power of the mob and disinclined to confront the increasing spirit of turbulence. In June 1734, a certain Henry Rogers and John Street resisted by armed force their expulsion from the possession of a house and estate, allotted by a decree of the Chancellor to another person. A large mob assembled; the officers of the law and the soldiers were resisted and fired upon, and three men were killed before the disturbers of the peace were overpowered. The affair was considered one of great gravity in the county and by the government, and Lord Hardwicke may have purposely chosen this circuit in consequence. The offenders were both tried before him, found guilty of murder, and afterwards executed; while the firmness he displayed, together with an exceptional leniency in the conduct of the trial towards the prisoners, made a great impression³. It was on such occasions, when the majesty of the law needed to be upheld and the gloomy influences of crime and anarchy repelled and destroyed, that Lord Hardwicke especially excelled. His speech on passing sentence of death affected greatly those that heard it, and the charge, which he delivered to the grand jury previous to the trial, put new courage into the hearts of the magistrates.

The following appears to be a fragment of what he said on the occasion⁴: "Of the truth of this observation, and of the pernicious consequences of lawless force, you of this country have lately had a flagrant but an instructive instance, in that you have seen from what small springs a torrent of violence may arise. How people, once engaged in such practices, go on from invading the property to taking away the lives of their fellow-subjects; and from an

¹ See chap. xx. Corr. Nov. 23 and 25, 1750, and II. 242, f. 34.

² Notes of cases tried on circuit, II. 688-9 and II. 695. Notes of Sessions in London and Middlesex, II. 681-6 and II. 696.

³ pp. 152 sqq. Notes of this case printed in Harris, i. 297; *Parl. Hist.* ix. 1298.

⁴ Endorsed by H. "Cornwall 1735" and marked in his writing, "go on at the bottom of page 6" and annotated by the second Lord H.—"An addition which appears to have been made to a charge delivered by Lord Hardwicke, Chief Justice, when on the Western Circuit in 1735."

obstinate, contemptuous opposition to the regular decisions of the ordinary Courts of Justice, they advance almost to open Rebellion. The honourable and indefatigable endeavours of the Gentlemen of this County to reform and suppress such daring outrages cannot be sufficiently commended and must always be remembered highly to their honour. And happy it is that those endeavours, enforced by the seasonable and gracious assistance of his Majesty, had the desired effect. To consider this affair in its full extent, it ought on the one hand to be looked upon as a strong proof that the King will make use of the *extraordinary*¹ as well as the *ordinary* powers of his Government, *only* for the protection and security of his people; and on the other hand, that the Gentlemen of England will unite in the support of the Laws, and of legal well-established government, against all attempts of any kind whatsoever to introduce disorder and confusion."

In a charge to the grand jury on another occasion, after pronouncing an eulogy on the present happy constitution and laws of England, and dwelling upon the high nature of the duties of the grand jury, he proceeded to enumerate the new Acts passed for the suppression of outrage and lawlessness, such as the "Black Act," which made it a felony to go armed and disguised and to demand with threats, the Acts against forgery, against assault and robbery, against smuggling and against the destruction of turnpikes, an offence which had grown to intolerable lengths and which threatened a general license. But laws, he insisted, however good and wisely enacted, could avail nothing, unless properly and vigorously executed.

"...It has been justly said that it is in mercy to the innocent that the guilty are punished; for there is, on the one hand, as much benevolence to the virtuous and orderly part of mankind in bringing criminals to justice, as there is severity on the other hand towards the offenders.

"The degeneracy of the present times, fruitful in the inventions of wickedness, hath produced many new laws necessary for the present state and condition of things and to suppress mischiefs, which were growing frequent amongst us²."

Violation of the law and brutality, when perpetrated by influential persons and those in authority, met equally with punishment at his hands. At the Norfolk Assizes, on the Chief Justice's

¹ Allusion to the calling in of the military forces to quell the disturbance.

² H. 767, ff. 75, 101.

first circuit, August 7, 1734, William Brown, the Mayor of Great Yarmouth, Samuel Artis, an officer, and Peter Master, the Keeper of the Bridewell, political supporters of Sir Robert Walpole, were all brought before him on a charge of having assaulted, whipped and imprisoned one John Darby, a member of the other faction, who, the defendants declared, had been active in creating a riot at the time of the elections. A verdict of £15 was given for the plaintiff, and the affair, from its political character, the position of the defendants and the connection of the accused with the minister, created some sensation¹. The old Duchess of Marlborough, who was on very friendly terms with Lord and Lady Hardwicke, but who had quarrelled with Sir Robert Walpole because she was not allowed to drive in St James's Park, writes to Lord Marchmont concerning this case on August 23rd: "I had an account lately which I will write, because I do not think it is printed, that my Lord Chief Justice Hardwicke has got great credit in his circuit to Norwich. There was a Yarmouth man, in the interest of Sir Edmund Bacon², who, upon pretence of a riot at the entry of the courtiers, the Mayor ordered to be whipped. This man brought his action, and my Lord Hardwicke said it was very illegal and arbitrary, and directed the jury to find for him, which they did, and gave damages, tho' the foreman of the jury had married Sir Charles Turner's daughter, who I take to be a near relation of Sir Robert's. I do not think this made the poor man amends, who was whipped wrongfully; for I would have had those that occasioned the whipping doubly whipped themselves. But I suppose the judge could go no further, and I liked it, because my Lord Hardwicke is a great man; and I hope from this action, as well as from his independency, that he will have some regard to the proceedings in Scotland when represented³."

Lord Hardwicke's firmness, however, in executing the laws against the disturbers of public order did not incline him to strain its power over the subject in offences against the Crown. The scrupulous fairness with which he had conducted the trial of the Cornwall rioters had already been the subject of comment, and another instance of his moderation and equity was afforded by the case of the *King v. Sutton* in 1737. The prisoner had already been found guilty before him at the Northampton Assizes for having

¹ H. 689, f. 33, printed in Harris, i. 285.

² Returned M.P. for Thetford.

³ *Marchmont Papers*, ii. 37. Sir Philip had been consulted by the Duchess in 1724 in one of her disputes and had given an opinion in her favour (H. 505, ff. 3-9).

in his possession instruments for coining. Coining was a treasonable offence, but the Chief Justice, doubting whether the mere possession of such instruments, without proof of their use, was indictable, caused the case to be brought before him again, sitting with all the judges in the King's Bench. In the event, the prisoner was unanimously found guilty, but awarded only a slight penalty, a fine of 6s. 8d., further imprisonment of six months and the pillory¹.

Not only were outrage and lawlessness rife in the streets of London and in the provinces, but on July 14, 1736, the Law was actually defied in Westminster Hall, in its very sanctuary, while the Courts were sitting and the judges were dispensing justice.

"All on a sudden," says Lord Hervey, "at the corner of the court of Chancery, there was such a loud report from a discharge of gunpowder that the whole Hall was in a moment in the utmost confusion; and everybody concluding it was a plot to blow up the Hall, the judges started from the benches, the lawyers were all running over one another's backs to make their escape, some losing part of their gowns, others their periwigs, in the scuffle, and such an uproar it occasioned that nobody thought his own life was safe or knew how it came to be in danger²."

The incident is thus recorded by Lord Hardwicke in his notebook in words which still vibrate with the indignation caused, Lord Hervey declares maliciously, not only by "the affront and insult offered to the courts of justice, but by the ridicule the lawyers had incurred."

"July 14th 1736. On this day, being the last day of the term, a most impudent and audacious act of sedition was perpetrated in Westminster Hall. About the hour of two, the Hall being then fullest of people, a parcel or packet containing several papers, and some sheets of several acts of parliament, and likewise a quantity of gunpowder, was laid on the step which runs along on the outside of the Chancery Bar; and being observed to smoke, was thrown from thence upon the landing place of the stairs which ascend to the Courts of Chancery and King's Bench, where it fired and blew up, both these Courts as well as the Common Pleas, being then sitting. The Hall was instantly filled with smoke, and at that instant, either by means of the explosion of the gunpowder, or by being dropped during the hurry and

¹ Strange, 1074; Annaly, 370.

² *Memoirs*, ii. 311.

confusion, or most probably by both these ways, were dispersed great numbers of seditious libels in the words and figures following:

“Wednesday, July 14th 1736.

“By a general consent of the citizens and tradesmen of London, Westminster and the Borough of Southwark, this being the last day of term, were publicly burnt between the hours of twelve and two at the Royal Exchange, Cornhill, at Westminster Hall (the Court then sitting), and at Margarets Hill, Southwark, as destructive of the product, trade & manufactures of this Kingdom, and the plantations thereunto belonging, and tending to the utter subversion of the liberties and properties thereof, the five following finished books or libels, called acts of Parliament, viz.:—1. An Act to prohibit the sale of distilled spiritual liquors etc. 2. An Act entirely to extinguish the small remains of charity yet subsisting amongst us. 3. An Act to prevent carriages and passengers coming over London Bridge, to the great detriment of the trade and commerce of the City of London and the Borough of Southwark. 4. An Act to seize all innocent gentlemen travelling with arms for their own defence, called the Smugglers Act. 5. An Act to enable a foreign Prince to borrow £600,000 of money sacredly appropriated to the payment of our debts¹.

“GOD SAVE THE KING.”

—“...As soon as this infamous paper was brought into the King’s Bench,” writes the Duke of Newcastle to the elder Horace Walpole, at Hanover with the King, “Lord Hardwicke [with whose ‘presence of mind and spirit’ on this occasion the King was much pleased] stopped the business, and told them that there was an affair of much greater consequence than the common business of the court, which required their attention. He then read the paper himself in open court and expressed the highest resentment and detestation of such an insult on the King and whole legislature, which his Lordship was of opinion came very nigh high treason....Lord Hardwicke took that occasion to go through the several acts of Parliament mentioned in the paper to show the reasonableness and necessity of them, and in the strongest manner to direct the several justices of the peace and magistrates to enforce the execution of them and to use their utmost endeavours to discover and bring to punishment the authors and contrivers of this wicked and abominable insult². —

Continuing the Lord Chief Justice’s own narrative: “Several

¹ Allusions respectively to the Gin Act (see above, p. 133), the Mortmain Act (see below, p. 148), the Westminster Bridge Act, the Smugglers’ Act (p. 151), and the Act for borrowing £600,000 on the Sinking Fund.

² Coxe’s *Mem. of Sir R. Walpole*, iii. 347; H. 58, f. 16.

of these papers being brought into the Court of B. R. [King's Bench] I directed the persons, who produced them, to go immediately before the Grand Jury of Middlesex, then sitting, to exhibit some of the libels to them, and make oath of the manner and circumstances of their being published and found, to the end that the Grand Jury might make a proper presentment to the Court of the authors and actors in this unparalleled piece of sedition and contempt, if found, or, if not found, a general presentment of the fact. In less than an hour afterwards, the Grand Jury unanimously brought into Court in writing signed by them, a presentment of the said printed paper as a wicked, false, infamous and scandalous libel, highly reflecting on His Majesty and the legislative power of this Kingdom, and tending very much to alienate, poison and disturb the minds of His Majesty's subjects; and did also present the author, printer and publisher, of the said wicked, false, infamous and scandalous libel as guilty of a very high crime and misdemeanour, and did request the Court to give directions to the proper officers to make strict search and enquiry after the said author, printer and publisher of the said wicked, false, infamous and scandalous libel and to give directions to such officers effectually to prosecute the author, printer and publisher thereof, in order that they might be brought to condign punishment for so great an offence.

"After this presentment had been read, I made a short speech to the Grand Jury, approving and commanding their justice and zeal on this occasion; setting forth the heinousness of the crime; and expressing the indignation of the Court at such an instance of sedition and contempt; concluding with a direction to the Justices of the Peace, and proper officers to endeavour to find out, and bring to condign punishment the persons concerned therein.

"On the 16th of July, the Queen, being then guardian of the realm, in the King's absence, did, with the advice of the Privy Council, publish a proclamation, entitled A Proclamation for discovering the persons concerned in a wicked and audacious outrage committed in Westminster Hall during the sitting of His Majesty's Courts upon the 14th of this instant July, and the author, printer and publishers of a false, malicious and treasonable libel then and there dispersed. Hereby £200 reward was offered for every one of the offenders who should be discovered and convicted!"

Sir Robert Walpole, writing to his brother under the influence of the panic occasioned, declared "there is no reason to doubt but

the whole was projected and executed by a set of low Jacobites, who talked of setting fire to the gallery built for the marriage of the princess royal, by a preparation which they call a *phosphorus* that takes fire from the air." In reality, however, the perpetrator of the offence was one Nixon, a crazy non-juring clergyman, who had acted apparently on his own responsibility and unconnected with any political faction, and who was almost immediately discovered. He was sentenced on the following February 10th by Lord Hardwicke to make a tour of all the Courts in Westminster Hall with a paper on his forehead declaring his offence, to pay a fine of 200 marks, suffer five years' imprisonment and find bail for future good conduct¹.

Any attempt to encroach upon the independence or dignity of his office, to which Lord Hardwicke was extremely sensitive, was always immediately repelled or punished. By foreigners, in general accustomed to the rule of a despotic executive in every sphere of government, the status and authority of the English judges and the sanctity of English law were not readily comprehended. Thus on January 4, 1737, Lord Hardwicke replies to a Monsieur de la Touche, of Paris who, ignorant of the procedure of English law, demanded from the Chief Justice the restitution of his wife from the Duke of Kingston: "The duty of my office and the public and impartial method of administering justice, established in England, forbids me as a judge to give an answer to any private application made to me either personally or by letter²." In October 1736, he had occasion to enforce the due execution of the law against the pretensions of the Portuguese Ambassador, on one of whose servants he had issued a warrant for a murderous assault, and who had ill-treated and imprisoned his tipstaff and taken away the warrant which he had sent to the Duke of Newcastle, at the same time using words of contempt against the Lord Chief Justice. Lord Hardwicke, in replying to the Duke's inquiries, denied the Ambassador's privilege under the Statute 7 Anne which related only to debt, and severely censured the Ambassador's interference with the warrant. He took care to address his letter not to the Secretary of State but to the Duke of Newcastle only, and proceeded: "I put in this claim on behalf of all the judges and their successors, whose duty it is, according to their oaths, to issue process and warrants *ex debito justitiae* without knowing the circumstances of particular persons or cases; and, when they have done this, they

¹ *Cent. Mag.* (1736), vi. 398, 421, 747; (1737), vii. 121.

² II. 238, ff. 1-3.

are not to answer for it in an extra-judicial way, but their acts are to be examined only in the ordinary course of law. However meanly," he continued, "any person may think of me, I am (tho' very unworthily) the King of Great Britain's Chief Magistrate for criminal causes; and I will not suffer that authority with which his Majesty has entrusted me to be trampled upon within his Kingdom, without exerting the utmost vigour of the law to vindicate it¹."

While he was still Chief Justice, on June 5, 1736, Lord Hardwicke presided at the time-honoured ceremony, which proved to be the last, of the presentation of the new Serjeants for their degree in the Middle Temple Hall². His speech, which dealt with the high calling of the members of the Bar and on the relations which ought to exist between the Bar and the Bench, was one worthy of the occasion. After dwelling on the gratitude and affection which the new Serjeants owed to the King for their promotion, he pronounced an eulogy on the Common Law and then on the legal profession itself: "It is a Profession of the highest importance to the preservation of the true balance of our excellent Constitution and to the administration of public Justice. Look back into the history of this country in all ages, and every period of it will furnish you with abundant evidence of this truth. Have the liberties of the people been at any time in danger from encroachments of the Crown? The professors of the Common Law have stood in the gap, and been the most zealous, as well as the most able Champions of public liberty. Hath the just Prerogative—the lawful power of the Crown—been at any time attack'd by faction or popular fury? The professors of this Law, whose education and studies instruct them how necessary this legal Prerogative is to the peace and good order of the Kingdom, and to the regular enjoyment of property itself, have been found the most strenuous and rational asserters of it. By such measures as these this Profession hath maintained its credit and weight in the Nation." He congratulated his hearers on the happy condition of the kingdom owing to which such personal trials of conduct were now unnecessary, and passed on to their official duties.

They were to consider themselves as "some of the principal ministers of the Justice of the Kingdom. Courts of Judicature can

¹ N. 5, ff. 176, 178.

² II. 646, f. 177; II. 767, ff. 93, 97. For an account of the ceremony and Lord H.'s speech and the banquet which followed, see E. Wynne's *Miscellany* (1765), 327 sqq., and W. Downing, *Observations on the Middle Temple* (Hopwood), 224. The Lord Chief Justice received £500 for the use of Serjeants Inn, 14 rings of 18s. weight "besides fashion," and 45 bottles of sack and claret of the value of £8. 4s. 7d., as well as 15 papers of biscuits, costing 15s.

determine causes only upon what is laid before them, and Counsel are the hands to prepare and exhibit the proper materials to them in a regular and orderly light." On another occasion in Court he had said : "Good pleading is nothing else but good logic and therefore it is not sufficient that the party lay down proper premises, but he must also draw such a conclusion from them as by it to show the Court what use he pretends to make of them!" Such a conception of their duties, it may be observed, added much to the responsibility of counsel and to the dignity of the Bar, and it is worth noting that it is one not universally held by the judges and leaders of the profession. Lord Eldon, for instance, thought otherwise ; he considered himself bound not to trust to counsel in preparation of the case but to make independent investigation ; he did not place the complete confidence in the Bar which the maxim here implies, and it is said, and it may well be true, that this was one of the causes of the great delays in his time¹.

Lord Hardwicke next proceeded to give advice concerning the commencement of suits which he declared to be "a weighty and important trust of great difficulty. It requires much skill and much conscientiousness. Here the client's proper remedy for his right, and his just defence against wrong are to be maturely considered and pointed out to him ; and here oppressive or groundless suits, as well as unjustifiable and obstinate defences, are to be withstood and crushed in the birth. The surest rule to walk by in this part of your practice is, to give no opinion upon a case stated by a client but such, as upon the like case made out by proofs, you would give as judges upon your oaths.

"The other part, concerning the carrying on and defending of suits, requires the virtues of Courage, Fidelity and Candour. In discharging this article of your duty, nothing can be more beneficial to the suitors than the cutting off and avoiding delays. It is the saying of a noble and admired writer of our own Profession, that as injustice makes judgment bitter, so delay makes it sour². And here one essential point occurs, which is to save and prevent, as much as possible, expense to the parties....Under this head there is nothing whereby you will gain more solid reputation to yourselves, or do greater honour to your Profession than discouraging and repressing frivolous and vexatious suits. They are the disgrace of

¹ In *Turner v. Cordwell*, II. 656, f. 15.

² See chap. xxvi.; Campbell, vii. 628; *Quarterly Review*, xliv. 102.

³ Bacon, *Essays*, lvi. "Of Judicature."

the Law, and bring the greatest obloquy upon it. They give colour to clamour, and furnish opportunities to men watchful to lay hold of advantages against this honourable Profession. In order to this it is your duty to discountenance to the utmost all Attorneys and Solicitors, whom you observe to foment and stir up such causes; and on the other hand, to give all possible encouragement and credit to such as hold the contrary conduct.

“ It was wisely said, as you have all read, that the Seat of Justice is a hallowed Place, and therefore not only the Bench, but the Footpace and Precincts, and all the avenues to it, should be kept free from Scandal and Corruption¹. ”

We may now proceed to consider Lord Hardwicke less as a judge and more particularly as a statesman and supporter of the ministry. It would be misleading, however, to imagine that there was any such distinction in reality between his political and judicial functions. The artificial, but convenient and indeed necessary separation of judicial office from political activity, maintained in modern times, was not then invented and would have been impracticable. For such refinements the times were too critical. The cause of law and order required the support of all good subjects, from the highest to the lowest. Party government, in the rigid modern sense, did not yet exist. The Whigs, who secured the Hanoverian succession, the national church, the law of the land, religious and civil liberty as far as the perils of the time permitted, together with the power and ascendancy of Britain among the nations, constituted the only party capable of carrying on the administration at this time and worthy of the national confidence; and they were necessarily supported by all except those who had something to gain by a return to arbitrary government, anarchy and confusion, and who could acquiesce in the subordination of British to foreign interests abroad. As Chief Justice and Head of the Administration of the Common Law of England, as the principal upholder of law and order and as one of the Regents of the Kingdom, in which capacity Lord Hardwicke first acted in May 1735, on the King’s setting out for Hanover, it would have been impossible to maintain a retirement and seclusion from politics, such as is dictated by later etiquette, in our happier and more settled times.

¹ Bacon, *Essays*, lvi. “ Of Judicature.”

Modern scruples of this kind, it is certain, never troubled Lord Hardwicke or any of his contemporaries, and, as Chief Justice, he continued as before to support the government with zeal and activity. He now began to take a principal share in the deliberations and decisions of the inner Cabinet, where his opinion had already great weight, and where attendance, in addition to his judicial duties, became exceedingly exacting and onerous. Several pages of careful transcripts in his own hand from the correspondence of the English ministers abroad testify also to the attention which he was now giving to foreign affairs, at a time when Sir Robert Walpole's fixed inclination for peace and his policy of alliance with France, though of undoubted temporary advantage to Britain, exposed it to future dangers by the support thereby given to the growing ascendancy of that country¹. Already, in the autumn of 1736, the Duke of Newcastle is writing to him to urge his attendance at a meeting of the ministers, and adding: "Dear Hardwicke, without you we are nothing²."

The chief scene in which Lord Hardwicke's political activity was shown was naturally the House of Lords; but it is in his charges on circuit to the country gentlemen, forming the grand jury, and to the general public in Court that the close relation between his judicial and political functions—indeed their identity under some aspects—appears most clearly. His exhortations on these occasions to the grand jury to duly execute the laws, passed naturally, by an easy transition, to praise of that constitution and that government under which alone the national laws and liberties could be maintained.

"'Tis the great advantage and happiness," he said in one of these addresses³, "of us of this Nation to live under a Government the best constituted of any in the world—administered over us and secured to us by the best body of Laws that human wisdom can frame.

"'Tis the particular excellence of these Laws that they have not been made by the arbitrary will of one man, nor by the humour or ambition or private designs of a few, who have had the fortune to obtain power over their countrymen. But they are Laws establish'd by the tacit concurrence of the whole Nation, who have experienc'd such usages to be just and good, or else

¹ H. 522, ff. 1-14. See p. 201 *n.*

³ H. 767, ff. 101 sqq.

² p. 156.

compil'd by the joint deliberation and consent of the representative body of this free people in full and free Parliament.

“Gentlemen, such is the system of government we have receiv'd from our ancestors, and such is the source and origin of our Laws; and as this is the nature of their original, so this excellent quality goes along with them, and is [?] carried into the execution of them. The manner of their administration participates of that in which they are made and enacted. For, Gentlemen, such has been the watchful care of our ancestors over the lives, liberties and estates of Englishmen, that as no law can be made to concern any of those valuable interests without their consent, so no Law can be administered to effect any of these but either originally or finally by the verdict or presentment of a Jury, that is the judgment of their fellow-subjects upon their oaths.

“As the Crown has its proper share of power in the making of Laws, as great as a wise and good Prince can wish, so it has also in the dispensing of them by Judges immediately appointed by the Crown or some authority deriv'd from it. But so have the People likewise in the powers of our juries, and thus the uniformity of the Constitution and the due balance of it is preserv'd thro'out.

“Under the security of this Constitution the Protestant Religion and the Liberties of our Country have long stood firm and unshaken amidst all the attacks that have been made upon them; and by the blessing of God they may, by the same means, be long preserved to us, if we are not wanting to ourselves.

“But, Gentlemen, it is this happiness that makes us the envy of other Countries,—’tis this Constitution that every Prince or State that sets up for subduing his neighbours has in view to pull down and destroy, in order to take off our weight and influence in the Common Cause.

“This has fallen out remarkably within our observation in our own time. Whoever has set up for universal Empire or to enslave Christendom, has, in the first place, as the first step to this work, taken into their protection and endeavoured to force upon us a Pretender to this Crown, a person of suspected birth, nurst up in the principles of tyranny and the highest bigotry of Popery, and of a spirit so mean and abject as to suffer himself to be made a tool for those purposes in the hands of any Prince, who has a mind to disturb the repose of his neighbours.

“This was the scheme of the late French King, and since the interests and politics of that Nation are chang'd, Spain, having acted

upon the same design, has taken its turn with him and at the same time that it has attempted to embarrass and destroy a very valuable branch of our trade, has taken this Pretended Prince home to his Court and actually made an invasion upon us, with insolent declarations in his favour. This has been happily defeated, but so indiscreet, so infatuated, so wicked are some amongst ourselves, as to unite in this interest, to support this cause, or at least to act as if they did so, which is really and in consequence the same thing to the public.

“And yet, Gentlemen, these persons acting in this manner will at the same time have you believe that they are Englishmen and Protestants. Englishmen and Protestants, who can join to carry on and serve the interests of a popish Pretender, supported by the most bigoted popish Prince and Nation in the World, now actually endeavouring to destroy some of the most valuable branches of English trade. The absurdity of this is self-evident.

“But, Gentlemen, these are considerations which ought to make us more in love with this Constitution, and exert ourselves in the best measures to preserve it. And the best means of doing this is certainly by a vigorous support of his Majesty’s Government.”

From the duties of the subject towards the King and his family he then passed, without any interruption in the order of his ideas, to the duties towards God; for “Fear God and Honour the King” still formed parts of the same moral code. Perjury, for example, was to be exposed and punished, both as an offence against God and against society, and especially “State-Perjury,” when men took oaths to the government to obtain places and advantages, and meanwhile only watched for a favourable moment to destroy it, and which “subverts the sacred obligation of an oath, dissolves all the ties, all the trust and confidence that can be amongst men.” Cursing and swearing were to be punished, drunkenness also, and publicans who conducted their houses badly, and the Sabbath day was to be duly kept.

“There is one thing I beg leave to offer to your consideration under this head of vice and immorality which is—That as it highly concerns Religion and the honour of God to have it suppressed, so it does likewise the temporal interest of any place or people. For corruption of manners does not only tend to draw down just punishments upon persons guilty of such crimes, but it enervates their minds and abates their industry. It introduces dissoluteness and sloth and consequently the ruin of trade, and at last is followed by poverty and beggary.”

The note of the whole speech is that of Authority—the Authority of divine and human law, to which all must submit, and without which no true freedom could be enjoyed. It was the great lesson which those undisciplined times had not yet learned, but which was now to be inculcated successfully by the wisdom and resolution of a few great men, and which proved the foundation of the future empire of England.

On another such occasion he defended the government from the attacks and libels which its enemies had taken the opportunity of the South Sea scandals to deliver¹.

“Gentlemen, take this matter in its true light. These seditious attempts don’t proceed from any real sense of the misfortunes which have befallen us; but the truth is, a handle is only taken from thence to endeavour to destroy and undermine his Majesty’s Government—the great security we have for our Religion and Liberty.

“Consider it a little and the thing speaks itself. The nature of man is such—where men are real friends to a government, where they wish its support and preservation, if misfortunes do happen, they will do their utmost to find a cure or a remedy,—but at the same time they won’t heighten and aggravate—but rather excuse—at least do their best endeavour to prevent the having an ill effect upon the Government....

“I will add but one thing more....

“Next to a zealous affection and dutiful obedience to the King, and as a consequence of that, the best method we can take to advance his service and the interest of our country is peace and union amongst ourselves. People who act upon the same honest principles, who mean the same thing, the support of his Majesty’s Government, should unite—should not let little private divisions and resentments endanger the attaining that end. ’Tis a duty we all owe our Country, to give up private piques and animosities, to the public—to the interest of our Country.”

These eloquent appeals to the nation, at a time when the people seldom heard or saw anything of their rulers and understood little of the great political issues in dispute, probably made a considerable impression and it is to be regretted that they only survive for us in scattered fragments and rough drafts. Nor are the reports of his speeches in the House of Lords during these years more complete, and are still less faithful reproductions of his words.

¹ II. 767, f. 108.

The Chief Justice is recorded as speaking in several debates in support of the ministers¹. He took a leading part, on March 28, 1734, on the occasion of the motion for the augmentation of the forces, when he replied to Lord Carteret's and Lord Chesterfield's stale and time-worn complaints of "the standing army in time of peace," and the danger to the constitution, and upheld the controlling power of the Crown over the forces².

He gave his support to the Charitable Uses Bill, commonly called the Mortmain Act, of 1736, a measure promoted by Sir Joseph Jekyll, the Master of the Rolls, and strongly opposed by the whole body of the bishops and clergy, the object of which was to check the bequests of lands away from the natural heirs to charitable or other uses, and which provided that the deeds should be sealed and delivered 12 months before the death of the grantor. In his view the bill was not a party but a national measure and a useful one, because tending to preserve the balance of the constitution. Power followed property, especially property in land, and therefore a perpetual unalienable property in land meant also a perpetual political power. This had been clearly understood and guarded against from the earliest times. Hence the Agrarian Laws amongst the Romans and the regulations adopted by other nations, and hence arose the dangers in England during the Norman period and later, when the nobles, owing to their possession of immense domains, gained the chief power, menaced the Crown and oppressed the people. In Edward I they obtained the statute of entails [*Quia Emptores*], which enabled them to make their lands inalienable and which proved a law of the most mischievous character, the judges, failing legislation, at last succeeding in breaking through it by the legal fiction of common recoveries, copied from the practice of the clergy in their collusive elusions of the Act of Mortmain. From this, and from further developements in the same direction, the happiest consequences ensued. The power of the barons was broken, the constitution was brought to a truer balance, trade and arts were increased and liberty was diffused through the whole body of the people, while the nobility became a middle class, at once a security to the throne against encroachments and a protection to the people. Would their Lordships, after giving up this dangerous privilege

¹ *Hist. MSS. Comm.*, Earl of Carlisle, 152-5, 169; *Parl. Hist.* ix. 485, 886; Lord Hervey's *Memoirs*, ii. 145.

² *Parl. Hist.* ix. 538; Clode, *Military Forces of the Crown* (1869), i. 87; Lord Hervey's *Memoirs*, i. 306 sqq.

for themselves, allow another estate of the Kingdom to go on perpetually increasing its unalienable property? The Church, indeed, and perpetual charities had at one time owned above half the lands of the Kingdom. This was manifestly against the national welfare, though no one approved ample endowments in the Church more than he did or lamented more the smallness of livings. These, however, he hinted, might be helped a little by restraining pluralities¹. The interest of the national trade and prosperity was another general reason for the prevention of this abuse; for the great incitement to industry and merit in trade, to study or the profession of arms was the founding of families [by the acquisition of landed estate]. As to the objection that the channels of charity would be stopped up, charity, while a noble and necessary duty, did not consist entirely of almsgiving, and still less in perpetual alms. "The Church of Rome flourished in that species of charity, when she had almost banished the very notion of that virtue out of her system of Christianity"². While thus approving strongly of the aim of the measure he, however, moved an important amendment, which was embodied in the bill, exempting from its operation purchases made *bona fide* and without fraud for a valuable consideration.

On two former occasions, at least, he spoke with great force against important measures introduced by the government but of which he disapproved.

The Quakers' Tithes Bill was a measure to relieve that section of the nonconformists, always specially favoured by the government, and at this time deserving particular consideration as the staunch supporters of Sir Robert Walpole in Norfolk, from the grievance of prosecution for non-payment of tithes in the Ecclesiastical Courts, where excessive fines and sometimes imprisonment, with all the attendant sufferings and miseries, were often inflicted for the offence. By a former Act of William III, summary proceedings before two

¹ According to Lord Hervey: "My Lord Chief Justice Hardwicke struck deeper [than earlier speakers], as he expressly said that there were many things in two books written by the Bishop of London, or by his order, contrary to Law, and that in those books powers were asserted to be in the Church which did not belong to it. He spoke also of *pluralities* as a great grievance, and said he hoped the Legislature would take cognizance of this abuse in the Church and put some stop to it." *Memoirs*, ii. 269; also *Hist. MSS. Comm.*, Earl of Carlisle, 169.

² Abstract from: "Notes of what was intended to have been spoke in the House of Lords in case there had been a debate on the merits of the bill." Printed in Harris, i. 308; *Parl. Hist.* ix. 1111 and 1119.

magistrates had been allowed in the case of small sums, and by the present measure such proceedings were made compulsory.

It passed the Commons by a large majority, but in the Lords, on May 4, 1736, it met with considerable opposition, especially from the bishops. The ingenious argument was used, that if it was a matter of conscience with the Quakers not to pay tithes, so it might be equally a matter of conscience with the clergy only to prosecute the offenders in the Ecclesiastical Court. Lord Hardwicke, who was supported by Lord Talbot, the Chancellor, opposed the bill and procured its rejection on totally different grounds. He approved of its object in principle, but pointed out that the bill, as then proposed to the House, having undergone several changes in its different stages, was a thoroughly impracticable measure in its details. It was a reform promoted by those who desired to find a remedy for certain abuses, but who had neglected to consider or provide the necessary machinery for carrying such a reform into execution¹. He also appears to have disapproved of the powers now proposed to be given to the justices of the peace.

The bill was ultimately thrown out by a majority of 54 to 35, to Sir Robert's great indignation, who showed his resentment by passing over Gibson, the Bishop of London, long called the "heir apparent to the See of Canterbury," and an active opponent of the measure, on the next vacancy of the Primacy. But we hear nothing of any sign of disapproval manifested against the Chief Justice, who was a principal author of its rejection².

¹ Lecky, i. 206, 260; Stanhope, ii. 281; Stephen's *Comm.* (1903), iii. 343; Gough's *Hist. of the Quakers* (1790), iv. 286; *Parl. Hist.* ix. 1218; *Gent. Mag.* vi. 326, 365, 718; *Hist. MSS. Comm.*, Earl of Carlisle, 172; Coxe's *Walpole*, i. 476.

² Lord Hervey gives the following exceedingly characteristic account of the defeat of the bill: "When the Quakers' Bill was debated, it was lost by the two law lords, the Lord Chancellor Talbot and the Lord Chief Justice Hardwicke opposing it. One reason these law lords had for this conduct was desiring to make their peace with the clergy and regain some of that favour they had forfeited by their manner of espousing and pushing the Mortmain Bill; but in truth the reason that weighed most with them was the consideration of popularity with the men of their own profession: for as great men as these two lawyers were and as upright as they were esteemed, they had the spirit of preferring the power and profit of their own profession as much at heart as any parson in the Kingdom or any set of men in the world. It was this spirit that made them and all the lawyers in both Houses for the Mortmain Bill, as the fewer lands there were unalienable in the Kingdom, the more titles and lands there would be open to be litigated." [The editor, J. W. Croker, here interposes in a footnote: "This motive seems to me too far fetched as well as too mean; it could hardly have influenced a practising conveyancer, much less these great Judges," and cf. Campbell, v. 35.] Lord Hervey continues: "It was this spirit too that made them against the Quakers' Bill: for as the purport of this bill was to make a justice of peace a sort of *referec*e between the parson and the Quaker in the case of all tithes under ten pounds, so this bill—had it passed into a law—would of course

Another of the government measures, the Smuggling Bill, 9 George II, c. 35, was also strongly opposed by the Chief Justice on its introduction into the Lords on May 15, 1736. No man knew better the serious evils which arose from smuggling and the difficulty in obtaining verdicts against the offenders ; no man was more convinced of the necessity of upholding law and order. But it was his opinion that by this measure the administration, in order to strengthen their hands in dealing with lawlessness and disorder, transgressed the proper limits of the executive power. He declared the bill to be a dangerous infringement of the rights and liberties of the subject. To one clause in particular, which by its vagueness exposed innocent persons to arrest, he took special objection. It rendered three persons carrying arms with *malicious intention* liable to transportation as smugglers. No crime by implication, he declared, was recognised by the law, nor could a malicious intention be proved by witnesses, or determined, in the case of an action in itself innocent, by judge or jury¹. One of the chief liberties of the subject was his security from imprisonment, except in case of a felonious or high crime sworn against him. Moreover, to bear arms in his own defence was a right which belonged to every man.

Lord Hardwicke's amendments to the bill, however, were lost and it passed by the small majority of 54 to 46.

For a short time the severe penalties of this Act suppressed to some extent the practice of smuggling, but the ultimate result was

have prevented nine lawsuits in ten, that were now brought into Westminster Hall, from ever coming there. This Lord Hardwicke, in one of his speeches, with great inadvertence (and I dare swear thorough repentance) plainly avowed was his chief motive for opposing this Bill ; saying that—‘ If the bill should pass, it would not only exclude the jurisdiction of the ecclesiastical courts from operating in the case of these tithes but would also virtually shut out the temporal courts, as it would make a justice of the peace a turnpike to the temporal courts, where almost all the disputants would be stopped’—the very reason (begging my Lord Hardwicke’s pardon) that should have induced every man in England but a lawyer or a parson to be for this Bill; but as long as money and power are reckoned of the good things of this world, it was no wonder the parsons should oppose a bill that would abridge their present capacity of worrying a Quaker, or that the lawyers should join the parsons when they were to reap the profits from this equitable Christian chase. But from what I have said, it is pretty plain, (in my opinion at least), that the lawyers, in promoting the Mortmain Bill or opposing the Quakers’, had nothing strongly in view but the enriching the harvest of Westminster Hall: and that their popularity with the laity in the first or with the clergy in the latter, was not their primary or chief consideration, but a casual incidental consequence of their attachment to the interests of their own burdensome profession.” *Memoirs*, ii. 270. For the value to be attached to Lord Hervey’s opinions and statements see below, p. 159 n.

¹ *Gent. Mag.* vi. 757; Hallam, *Const. Hist.* (1854), iii. 287; *Parl. Hist.* ix. 1229.

only to render conviction more difficult, from the reluctance of juries to inflict the capital punishment, and the infringement of the law became as frequent and as scandalous as before¹.

On the other hand, Lord Hardwicke strongly advocated the severest punishment of the authors and abettors of the Porteous riots at Edinburgh². In the debate on this affair, on February 10, 1737, he supported the inquiry proposed by Lord Carteret; and after rebuking the latter for having ventured to refer with levity to the explosion in Westminster Hall, he proceeded to discuss fearlessly the controversial points raised concerning the right of the civil power to call in the aid of soldiers to quell resistance to its authority, the compatibility between a strong executive and individual freedom, and the legal and constitutional status of a soldier, speaking not only as a lawyer and a statesman but as one who knew how to govern³.

Owing to the illness of the Lord Chancellor, Lord Hardwicke was now presiding as Speaker over the debates in the House of Lords, by authority of a commission under the Great Seal, an office in which he was continued on Lord Talbot's death on February 14, 1737, by a fresh commission of February 16, to which the King himself affixed the Seal⁴.

CORRESPONDENCE

Duke of Newcastle to Lord Hardwicke

[H. 58, f. 12.]

WHITE HALL, July 14th, [1735].

MY DEAR LORD,

You have done great justice to the gentlemen of Cornwall, with which I have acquainted the Queen⁵; but I believe yours was the only letter from Launceston that was silent upon a subject, which has affected everybody there with equal surprize and approbation, I mean, the great ability, necessary resolution and uncommon good nature that appeared in the Judge....

Believe me, I was overjoy'd (tho' not surprised) to hear the accounts from Launceston*....

¹ Hervey's *Mem.* ii. 310.

² A riot arising at the execution of Andrew Wilson, a smuggler at Edinburgh, Captain Porteous gave the order to fire, in consequence of which eight people were killed. He was found guilty by the judges, reprieved by the Queen and subsequently seized in the prison by the enraged mob and hanged. For papers relating to the incident see H. 527, f. 240; Coxe's *Walpole*, i. 490; iii. 360sqq.; and Hervey's *Mem.* ii. 340, where the caution of Lord Hardwicke and of the Lord Chancellor is ridiculed; further below p. 183.

³ *Parl. Hist.* ix. 1290, 1295.

⁴ *Lords Journals*, xxv. 16, 18.

⁵ The Queen acted as regent during the King's absence abroad this year.

* There was such an intimacy for many years between the D. of N. and my Father,

Sir John St Aubyn to the Lord Chief Justice

[H. 237, f. 299.]

CLOWANCE, Augt. 12th, 1735.

MY LORD,

I had the honour of your Lordship's letter, wherein you referr'd it to the gentlemen and myself whether it would be proper to hang Rogers¹ in chains.

[He explains that it was thought inadvisable on account of the mob, who might make this the occasion of a new attack upon authority, whereby the effect of his trial and punishment would be weakened, and proceeds :]

We are highly sensible of your Lordship's attention to everything which may secure the peace of our Country, and it is the greatest happiness to it, and indeed the whole kingdom, that your Lordship had the trial of this criminal; for I really believe that no less authority could have settled those doubts which some people had upon this occasion, and the public honour which your Lordship has done the Magistrates of this County has not only more than repaid them for all the pains and hazards they have been expos'd to in this troublesome affair, but must excite in them the greatest constancy and courage in the future discharge of their duty.

Your Lordship, I hope, will pardon me if I mention one thing which in the opinion of all gentlemen would have a most happy effect, and that is, my Lord, the publication of the trial. I speak this with all submission, but your Lordship must be sensible what importance it will be of, not only to this County in particular, but to mankind in general, that a matter of this consequence, which has been the subject of so much speculation and was try'd by your Lordship, should be made known to the World.

He was executed on the Wednesday, and died obdurate with a lie in his mouth, insensible of any impression from what your Lordship said to him, which must have moved any heart but that of Rogers.

I hope in God that these timely examples have entirely subdu'd the licentious spirit of the rabble, and that we shall never again know such a dangerous instance of rebellion against our laws. Your Lordship may be assur'd of our utmost vigilance in preserving the peace of our Country, and we join our wishes, which

that it is singular the correspondence does not begin earlier. I fancy letters must have been destroyed. Both the Duchess of Newcastle applied to by Lord Godol[phin] and Lord P[elham] by Lord Ashburnham very unhandsomely refused me a sight of my Father's letters to the D. of N. II. [See also *Hist. MSS. Comm.*, Earl of Dartmouth, iii. 264. There is, however, nothing now in the Newcastle MSS. of any interest of an earlier date.]

¹ p. 134.

are those of the whole Kingdom, for your Lordship's long life and prosperity.

I am, my lord, your Lordship's most faithful and obedient humble Servant,

...

JOHN ST. AUBYN.

Lord Chief Justice to Sir John St Aubyn

[H. 237, f. 303.]

C[ARSHALTON], Aug. 27th, 1735.

SIR,

I received the honour of your letter at Bristol amidst the hurry of business and entertainment, with which that place always finds us full employment. For this reason I defer'd sending you my acknowledgments for it, till I could find an opportunity of doing it in a manner more suitable to the occasion. As to the opinion which you are pleased to inform me had been carried by yourself and the other gentlemen of the Country relating to Rogers's being hanged in chains,—I own I could have wished that the circumstances of time and the disposition of the common people would have borne such an example; but it must be admitted that in things of this nature it sometimes happens that the same spirit which makes such a measure just and fit, doth also render it hazardous to attempt; and I entirely agree with you that it might have been very unfortunate in the event to have given the rabble an opportunity of striking the last blow or having a new triumph. I submit therefore to the sentiments of those, whose perfect knowledge of the country enables them to make the best judgment of this affair, and whose laudable zeal to support the authority of the law and bring the criminals to justice must convince everybody that the judgment they make is impartial.

Tho' I am extremely sensible how defective my part in the Trial must appear, yet if any benefit could arise from printing it either to the Public in general or to your County in particular, I should readily give way to it, in case it were practicable. But as no short hand writer was employ'd and I have not the least note of anything that passed except the evidence of facts to assist my memory, I find it will be impossible to do it. Accounts of proceedings of this kind never have been, nor ought to be, published by the authority of the Judges, but in such a degree of perfection as may make them fit to see the light and likely to give satisfaction to mankind; and you will easily be sensible that when that cannot be

attain'd, the publication may possibly have a contrary effect from that which is intended by it.

I heartily join in your public-spirited wishes that the examples, which have been made, may tend to subdue that licentious spirit which lately caused so much disturbance, to restore the peace of the Country and secure the authority of the Law which it is my principal, as well as my particular duty, to support. It was with the greatest pleasure that I observed so many instances of your uncommon vigilance and attention to this desirable end, so necessary to the well-being of us all, and I sincerely hope that you will reap those happy fruits of it which you have so worthily deserved.

I beg leave to offer my unfeigned thanks for the great civilities I receiv'd from yourself and the rest of the gentlemen in Cornwall and for the obliging wishes and expressions in your letter....

Lord Chief Justice to the Duke of Newcastle

[N. 5, f. 83.]

CARSHALTON, Sept. 28th, 1735.

MY LORD,

I receiv'd yesterday a letter from my brother Cocks of Herefordshire¹, giving an account of a new attempt to demolish the Turn-pikes near Ledbury, attended with a very outrageous riot, to which a vigorous and becoming opposition was made by the Justices of the Peace and Gentlemen of the Country².

[He supports the petition of the Herefordshire gentlemen for the dispatch thither of a military force and continues:]

As this is the first instance, in which I have heard that the Country-Gentlemen have opposed themselves against attempts of this nature with spirit and vigour, it seems very desirable that they should be strongly supported in it. For my own part, I have for some time look'd upon this sort of risings as one of the worst symptoms in the Kingdom; and have thought it my duty, in the few charges³ I have made, to take very particular notice of them, and to inculcate into men's minds the dangerous consequences that must follow from suffering the People to get the better of the Laws, and, as it were,

¹ John Cocks, brother of Lady Hardwicke.

² For an account of these riots see T. Wright, *England under the House of Hanover* (1848), i. 154 n. The rioters, a hundred in number, armed with guns, swords and axes, dressed in women's clothes and with their faces blackened, destroyed five or six turnpikes at Ledbury, on September 21, and the disturbances were renewed later.

³ pp. 134 sqq.

to overrule the Acts of the Legislature. It is not unnatural to foresee that, if they should prevail in any of these violences, the like opposition may in time be found against other taxes and public payments....

Your Grace's most obliged and most faithful
humble servant,

HARDWICKE.

Duke of Newcastle to the Lord Chief Justice

[H. 58, f. 19.] NEWCASTLE HOUSE, Friday morning, [end of Sept. or Oct. 1st, 1736].

MY DEAR LORD,

You cannot imagine how pleased I have been to see how just a sense the Queen, and our Friend¹ has of your goodness and attendance² this last week....

I know the Queen has wrote to Hanover in the kindest manner upon your subject....

We shall have most material business at Sir Robert's on Tuesday next, so I beg it as the greatest favour, that you would not fail to dine there that day. Dear Hardwicke, without you we are Nothing.

From ever most affectly. yours

HOLLES NEWCASTLE.

Lord Chief Justice to the Duke of Newcastle

[N. 5, f. 176.]

CARSHALTON, Oct. 2nd, 1736.

MY LORD,

I am honoured with two letters from your Grace and one from Mr Stone³ by the same messenger, and will take care that the packets shall carefully be returned to the latter in due time. But it is impossible for me to be at Sir Robert Walpole's on Tuesday, having a particular engagement for that day. Besides, as I spent the greatest part of this week in Town, and between the Circuit and my frequent attendances in London, together with the necessity of sitting the week after next at the Old Bailey, shall in effect have had no Vacation, I must beg your Grace would excuse me and not repeat a command, which, whilst I wish to obey, will be found impracticable. As Sir Robert talk'd of sending for my Lord Chancellor⁴ to Town, it is possible his Lordship may be there, but whether he is or not, 'twill not alter the case⁵....

¹ Probably Sir R. Walpole.

² No doubt at the Regency Board. The King had left for Hanover in May.

³ Andrew Stone, the Duke's secretary.

⁴ Lord Talbot.

⁵ See also f. 220. There are several letters of this kind, refusing the pressing requests of the D. of N. to attend the Cabinet councils, on the plea of the necessity of rest and vacation.

CHAPTER X

LORD CHANCELLOR

The Walpole Ministry, 1737-1742.

THE sudden and unexpected disappearance from the scene of Lord Talbot, who little more than three years before had been appointed Chancellor in the prime of life and intellectual vigour, left the Woolsack a second time vacant for Lord Hardwicke¹. "All men's eyes," says a contemporary, "were immediately turned toward him²." His entrance into the Cabinet, as an official member, was much desired by the government. But there were private considerations which at first made Lord Hardwicke hesitate in accepting the Great Seal. It entailed the surrender of an independent, permanent and purely judicial appointment, in which he could count on making an ample provision for his family, in order to receive another, one of the highest in the land no doubt, but of far greater general responsibility, entailing a more direct participation in, and approval of, ministerial policy, and, through its political character, precarious and dependent on the fortunes, perhaps on the whims, of ministers. At that period, in the absence of any official pension scheme, a dismissed Lord Chancellor might be placed in a position of extreme embarrassment, with a new dignity and title, but without any income to maintain them, excluded as well from the practice of his profession, and dependent entirely on the favours of the Crown or on those of his political opponents. Some hesitation, therefore, was only natural; but on February 21, within a week after Lord Talbot's death, he had accepted the Great Seal³. A lucrative reversion in his gift as

¹ A memorandum on his death, II. 694, f. 86, and an eulogy upon him, II. 662, f. 20.

² Bentham in Cooksey's *Essays*, 61.

³ The anecdote concerning the proposed offer of the Seal to the Jacobite, Nicholas Fazakerley, commonly related, is based on nothing but gossip repeated by the third Lord Holland (Walpole, *George II*, i. 159 n.).

Chief Justice was about to fall in, and he was compensated by the grant of a reversion of the Tellership of the Exchequer to his eldest son; but he received no further financial provision such as was usually bestowed by the Crown in these cases¹. He has left a memorandum of the transaction in his own handwriting²:

"On Monday, the 14th day of February 1736/7, about five in the morning, died Charles Lord Talbot, Lord High Chancellor of Great Britain. The same forenoon, being at the sittings in Westminster Hall, I receiv'd a letter from Sir Robert Walpole desiring to speak with me on the event of that morning, and wishing I would dine with him that day in private. I went accordingly, and after dinner he proposed the Great Seal to me in the King's name. Thereupon I took occasion to state to him the progress of what related to that affair since the Session of Parliament, which ended in 1733*. That I was now in a quiet situation which by practice was become easy to me; that I had no ambition to go higher, and tho' I had the most dutiful and grateful sense of his Majesty's goodness, desir'd to be left where I was.

"He grew more pressing and talked in the civil strain familiar to ministers³ on such occasions, after which I told him I would come to no resolution then, but would consider of it. At the same time I acquainted him with the near prospect of the office of Chief Clerk of the King's Bench soon falling into my disposition, which I might grant for two lives for the benefit of my family, and therefore (if I should at last determine to accept the Great Seal) common prudence required that I should have some equivalent. Sir Robert entered into this with earnestness, said it was not only reasonable, but necessary; and at first hinted at some treaty with Mr Ventris for a surrender of the office and letting in a new life for the benefit of my family; or taking one of the additional £1,000 per annum

¹ Chamberlayne, in his *Notitia* (1755), 79, gives the salary of the Chancellor at above £7000, but this sum by no means represented his entire remuneration, which was greatly augmented by fees. This writer adds: "Of late years few have accepted this office without receiving a large sum from the crown on their entrance upon it, and a pension of £4000 or £5000 a year for life on their being dismissed from this high station. They are usually continued in it about 7 years." These bargains, which took place whenever a vacancy occurred between the newly appointed officials of state and the Crown or the ministers, have been sometimes construed as evidence of meanness on the part of the government, at others as showing avarice on the part of the official. They were, however, the consequence of the inadequate salaries, and of the total absence of any provision for retirement or pension.

² H. 522, f. 18.

* [I.e. his acceptance of the Lord Chief Justiceship instead of the Great Seal. See above.] I can find no account of that interesting period amongst my Father's papers. H.

³ The word "courtiers" is here erased.

from the office of Chief Justice of the King's Bench and restoring it to the Chancellor's office.

"I explicitly, and without hesitation, declared that I would do neither; for I would not lessen the place I left to the prejudice of my successor, to augment that which I should be going into; and I compared it to the case of a bishop, who was about to be translated, calling in his tenants to fill up leases at an undervalue. I told him further that if I should happen to accept the Great Seal, the most proper equivalent to my family seem'd to be that of the office of Teller of the Exchequer to my eldest son in reversion, for life; for I was determin'd to take no sum of money, nor any augmentation of salary."

"He readily declar'd this to be very reasonable; but as the King had a dislike to reversionary grants, especially those for life, this point must be reserved for His Majesty's pleasure, as the principal one was for my deliberation.

"After a few days I was made acquainted that the King persisted in his intention to put the Great Seal into my hands, and was willing to grant the Teller's place in the manner which had been suggested¹; whereupon I resolved humbly to submit myself to his Royal pleasure by taking on me this arduous and burdensome station²."

¹ According to the Chancellor's usual good fortune, it fell in the next year.

² Another memorandum of the same, with which his notes of cases decided by him as Chief Justice conclude, II. 694, f. 86; cf. with the above, Lord Hervey (*Memoirs*), iii. 38: "Lord Hardwicke alone, and he only internally, rejoiced at this incident [Lord Talbot's death]; there had ever been a rivalry between these two great men, and of course, that hatred ever consequential to rivalry, which is always as strong though not always so conspicuous, among great as little men. Lord Hardwicke, too, had sense enough to know that as there were but these two considerable law lords in the House of Lords, the authority there of him that was left must be greatly increased when there was nobody to be put in of equal consequence, either to him that remained or him that was taken away. Lord Hardwicke was very soon after made Lord Chancellor, and not only felt, but often too plainly showed he felt, how considerable he was become." John, Lord Hervey (1696-1743), eldest surviving son of the first Earl of Bristol. How far the evidence and memoirs of such a contemporary should be accepted is a recurring problem of the student of history. On the one hand he was a clever spectator of the events which he records, with exceptional opportunities for observation and with great powers of description; and his narratives, when compared with others, are often seen to be by no means wanting in accuracy of detail. On the other hand, we must recall his character and career, that of a time-server and turncoat, of dissolute morals, capable only of low, mean conduct, an adherent of a party only for the office, owing his claims to consideration chiefly to his backstairs influence and secretly vilifying friends and benefactors, no longer able to serve his interests. He abandoned Pulteney for Walpole when the latter was appointed first minister by George II, and was rewarded with a pension of £1000 and the vice-chancellorship of the household. He made his court and gained favour by joining in and stimulating the angry feelings of the King and Queen against the Prince

Lord Hardwicke lost no time and appears to have begun his sittings immediately after receiving the Great Seal, on February 24, in the hall of Lincoln's Inn, where the business of the Court of Chancery was frequently transacted¹. But he was not sworn into his new office formally till April 29, and the event was made the occasion of a grand ceremony in his honour according to the custom of the day. The new Chancellor, with the Great Seal in his keeping, proceeded from his house in Lincoln's Inn Fields to Westminster "in a rich new coach of state," attended by the judges and by the ministers riding in cavalcade. "To do the greater honour to his Lordship," says Jeremy Bentham, "Sir Robert Walpole, then Prime Minister, the then Lord President of the Council², and several others of the greatest officers of the state attended him into the Court of Chancery, where he took his oath of office and his seat therein; and I well remember being present in Westminster Hall upon that day and seeing his Lordship afterwards going out of the Court of Chancery from sitting as Chancellor into the Court of King's Bench, where he sat as Lord Chief Justice of that Court, to give his opinion in a cause of some consequence which had been argued before him there; so that it may very truly be said that he presided on one and the same day in the two highest Courts of Law and Equity in Westminster Hall³."

of Wales, and told Walpole that he must do so too, if he desired to keep his place. He exercised his favour at Court on behalf of Walpole, vilified his former friend, Pulteney, and was made Lord Privy Seal in 1740, in opposition to the Duke of Newcastle, (see pp. 228 sqq.). But when Sir Robert's fall became imminent, he was again closeted with Pulteney and Chesterfield; was dismissed, however, by the new ministers in 1742, and then proceeded to abuse his former benefactor, the King, in anonymous lampoons, supported the dismissal of the Hanoverian troops and distinguished himself by his opposition to the Gin Act (*Dict. Nat. Biog.*; Horace Walpole's *Letters*, i. 157). His composition of the supposed verses of the Prince to the Queen and his reflections upon the wife of the elder Horace Walpole (*Hervey, Mem.* iii. 228; i. 330) are disgusting examples of the lowest taste and the lowest morals. The truth of Lord Hervey's observation and narrative is consequently vitiated and distorted by the most depraved malice and by an incredible meanness of judgment, an evil motive being always ascribed to the most innocent words and actions; and to a person of his calibre, so entirely deficient in good feeling and ordinary rectitude of purpose, so totally wanting in the common obligations of patriotism and duty, the interpretation of the character and conduct of men such as Lord Hardwicke or even Walpole was an impossibility. All that we are given in fact are what could have been the motives and conduct of Lord Hervey himself in similar circumstances. (Cf. above, 150 n.) On October 14, 1739, he is described by the Duke of Newcastle in a letter to the Chancellor as the "only man in the whole House [of Lords] that has ever presumed to behave indecently to you there" (see p. 230).

¹ *Records of Lincoln's Inn*, iii. 312, 319.

² Lord Wilmington, formerly Sir Spencer Compton.

³ Cooksey's *Essays*, 61; *Political State*, liii. 505.

Lord Hardwicke has himself left the following memorandum of this circumstance :

" I continu'd Chief Justice of the King's Bench, and did all acts of office at my Chambers, till the 8th day of June following, when I acknowledged a surrender of that office before Mr Justice Lee, who on the next day, being the day before Trinity Term, was sworn Chief Justice of that Court at my house in Lincoln's Inn Fields. And note that during that time, viz. in Easter Term, I sat one day in Court as Chief Justice in my black gown and hat without any coif and heard a motion, according to the precedent of my Lord Keeper Littleton mentioned in Cro[ke] Cas[es] [Part iii] 600; 1 Sid[erfin] 338, 365¹."

On the very day that Lord Hardwicke received the Great Seal, and was sworn into his new office at the Privy Council, he was forced to undertake a task, not only repugnant to his personal feelings, but contrary to his judgment. The ill terms on which the King lived with the Prince of Wales are well known². The latter, who had met with anything but good treatment at his father's hands, shortly after his arrival in England, at the instigation of Bolingbroke, Pulteney, Chesterfield and Pitt, and some of the Tories, made himself the centre of the opposition to Walpole and the King's government. In order to embarrass the administration, he had now been induced to take a step which caused much sensation, to allow a motion to be brought into the House of Commons under form of an address to the King, demanding the settlement of £100,000 a year, instead of the smaller sum which he already received. The King, by the advice of Walpole, on hearing of this design, determined to forestall it.

The following is Lord Hardwicke's own account of the incident³:

" Soon after this [*i.e.* his acceptance of the Great Seal], people began to be sounded on a motion projected to be made in the House of Commons, for an increase of allowance to the Prince of

¹ H. 694, f. 86. "Lord Hardwicke being Lord Chancellor as well as Chief Justice of B. R. came into Court, 29th April, took the oaths and heard my motion." (2 Strange, 1071) and Bridgman, *Legal Bibliography* (1807), ii. 283, Brit. Mus., Author's MS. note; Annals, 364, and precedents mentioned there, and see *Hist. MSS. Comm. Rep.* viii. (1) 203, W. G. Hamilton, "Lord Hardwicke valued himself exceedingly...on having presided in both Courts on the same day."

² Coxe's *Walpole*, i. 519; Lord Hervey's vivid and amusing *Memoirs*, iii., but which are very little to be trusted.

³ H. 522, f. 18. See also Coxe's *Walpole*, i. 526, reprinted in *Parl. Hist.* x. 342; *Hist. MSS. Comm.*, Earl of Carlisle, 177.

Wales, and for settling a jointure on the Princess. This was the first time I had ever heard of such an intention; for tho' stories had been told of uneasinesses at Court on that head, and that some warm young men were for a project of this kind, yet it had never been seriously spoken of as a measure before now. The agitation rais'd by this last affair, together with the King's imperfect recovery from a bad fit of illness, prevented the actual delivery of the Great Seal till Monday, the 21st of February.

"During this interval I had much discourse with the Ministers about this unhappy difference in the Royal family, and may with truth say that, tho' an augmentation of the Prince's allowance was then impossible to be obtain'd, I was in some degree instrumental in prevailing to settle the £50,000 p. ann. on His Royal Highness for the joint lives of the King and himself¹. In this I had two views; one to strengthen the King against the approaching attack in a part the least defensible. The other to secure a certain provision to the Prince in all events; for, as the flame now broke out might probably in time spread and burn fiercer, it was not easy to foresee to what lengths the resentment of some, and the officious zeal or ductility of others, might carry them.

"On Saturday night, the 19th of February, I was called to a meeting at Sir Robert Walpole's, where were present the Dukes of Grafton, Devonshire and Newcastle, the Earl of Scarbrough, and Mr Walpole². Sir Robert then inform'd us with how great difficulty he had at last persuaded the King to submit to make the Prince's allowance independent and to settle the jointure³, and that the King would give him authority to declare to the House of Commons, when the motion should be made, that His Majesty had agreed to both these points.

"Some of the company, of whom I was one,—but what person in particular began it, has escaped my memory,—made an objection, that if this should be declared first in the House of Commons, without the Prince, or at least his Treasurer, being previously acquainted with it, it would have the air of an intended surprize, and besides, the friends of the royal family there might think themselves ill-used to be brought into so great a difficulty as voting in a dispute between the King and Prince, when perhaps such a previous step might have prevented its coming on.

¹ Hitherto the Prince had received this sum not as a settlement, but as monthly payments by the King's favour.

² Horace, brother of Sir Robert (1678–1757), envoy at the Hague; afterwards first Lord Walpole.

³ Upon the Princess of Wales.

"Tho' this objection was made, yet a public message to the Prince was never once mentioned, or (as I verily believe) then thought of; nay, Sir Robert Walpole then declar'd that it was vain to imagine that the King could ever be brought to what would be called so low an act of submission to his son as to permit any private communication of the kind then hinted to be made to him, after the steps the Prince had already taken. With this the meeting broke up.

"On Sunday, the 20th of February, about noon, I receiv'd the King's commands by the Duke of Newcastle to attend His Majesty the next day in Council to receive the Great Seal; and the Privy Council was summon'd to meet on Monday at twelve of the clock. I went to court about that hour, expecting no other business but the solemnities usually attending the appointment of a Lord Chancellor, when the Duke of Newcastle, meeting me there, told me that it was resolved to send a message to the Prince by some Lords of the Cabinet Council, but that he understood I was not intended to be one by reason that I should be so lately invested with my new employment.

"Not long afterwards, whilst I was waiting in the room next the bed-chamber, with my Lord President¹, the Dukes of Argyll and Newcastle and several other Lords, Sir Robert Walpole came out of the King's closet in a great hurry with a paper in his hand; and calling all the Lords of the Cabinet then present about him at the upper end of the room, acquainted them that it was the King's pleasure that the message, of which he then read over a draft in his (Sir R. W.'s) own handwriting, should be forthwith carried to the Prince by the Lord Chancellor, Lord President, Lord Steward and Lord Chamberlain. I own, after what I had been told, the naming of me did not a little surprize me, and made me expostulate with Sir Robert *aside* on the hardship of making such a disagreeable errand to the Prince my first act of office. He assur'd me that he had hinted this to the King, as far as he durst venture in so nice a case, but His Majesty's answer was—*My Chancellor shall go.*

"It was impossible further to dispute the King's first command, especially on an occasion so liable to jealousy; but my expostulation brought about this variation in point of form, that instead of the four officers above-mentioned, the whole Cabinet Council were ordered to go with the message.

¹ Lord Wilmington.

"This affair was transacted with such precipitation, of which several Lords complained, that there was no opportunity to consider the penning of the message as it deserv'd. Indeed the time pressed extremely, and the place was highly improper for such a consultation, for the company of the levee filled the room, and I verily believe heard many of the things which passed, whereof no doubt was made amongst us but H. R. H. was immediately informed.

"However I hazarded an objection to one expression in the draft as too rough and harsh. The draft had these words: *the undutiful measures which His Majesty is informed your R. H. intends to pursue.* It was answer'd that the King would not hear of parting with the word *undutiful*, and that it was with much difficulty he was induced not to add severer epithets. Therefore the utmost I could prevail for was to change the word *intends* into *hath been advised to pursue*, as it now appears in the vote of the House of Commons."

After announcing the King's intention to settle a jointure upon the Princess of Wales, the message ran :

[“The King has further commanded us to acquaint your Royal Highness that altho' your Royal Highness has not thought fit, by any application to His Majesty, to desire that your allowance of fifty thousand pounds p. annum, which is now paid you by monthly payments at the choice of your Royal Highness preferably to quarterly payments, might by His Majesty's further grace and favour be rendered less precarious, His Majesty to prevent the bad consequences which he apprehends may follow from the undutiful measures which His Majesty is informed your Royal Highness has been advised to pursue, will grant to your Royal Highness for His Majesty's life, the said fifty thousand pounds p. ann. to be issuing out of His Majesty's Civil List Revenues, over and above your Royal Highnesses revenue arising from the Duchy of Cornwall which His Majesty thinks a very competent allowance, considering his numerous issue and the great expences which do and must necessarily attend an honourable provision for his whole royal family¹.”]

"It was now growing late. Sir Robert Walpole told us that business of moment was expected in the House of Commons and he with Sir Chas. Wager² must of necessity go thither, and Lord Islay³ went to the House of Lords on pretence of attending the

¹ H. 522, f. 29.

² Admiral Sir Charles Wager (1666-1743), First Lord of the Admiralty.

³ Archibald Campbell (1682-1761), created Earl of Islay, 1705; succeeded as third

hearing of the Duke of Athol's claim of the barony of Strange, which was appointed for that day.

"About two of the clock the King came into council and there delivered me the Great Seal with very gracious expressions, whereupon I was sworn Lord Chancellor.

"After the King was gone the ten Lords*, who afterwards carried the message, remained in the Council Chamber to deliberate in what manner to execute their charge. It was not yet writ out fair, and a rumour went about the Court that the Prince was just going from the Princess's drawing room to the House of Commons. In order to prevent this, and that H.R.H. might be regularly inform'd of what was intended, tho' it was not question'd but he was already appris'd of it, it was resolved to send the Lord Steward and Lord Chamberlain to acquaint him that they, with several other Lords, were ordered to attend H. R. H. with a message from the King and to desire to know his pleasure where he would receive it. He answered, in his own apartment immediately.

"It was next considered whether to leave the paper with the Prince, so as to give time to deliberate of an answer, or not; and it was the unanimous opinion of the Lords to leave it with H. R. H. in case he should desire it, but not otherwise, because we had no directions from the King for that purpose.

"As soon as the fair copy had been examined with the draft, all the ten Lords went with it to the Prince's apartment. H. R. H. came immediately into his levee room, and as this was the first time I had come into his presence after my promotion, I advanced forward and kiss'd his hand, on which occasion he congratulated me with expressions of much kindness.

"When all the Lords had come into the room and the door shut, I read the message to the Prince very audibly and distinctly, and took care to lay a particular emphasis on the words *hath been advised to pursue*. As I read that part which asserts the £50,000 p. annum to have been paid by monthly payments at the choice of H. R. H. preferably to quarterly payments, he said, *That is true.*

"The reading being finish'd, there was a short pause and the Duke of Argyll, 1743; Keeper of the Great Seal of Scotland and Chief of the Whig party in the Northern Kingdom.

* Lord Chancellor, Lord President [Lord Wilmington], Lord Steward (Duke of Devon[shire]), Lord Chamberlain (Duke of Grafton), Duke of Richmond, Duke of Argyll, Duke of Newcastle, Earl of Pembroke, Earl of Scarbrough, Lord Harrington.

Prince look'd about him. Then he said, *My Lords, am I to give an immediate answer.* To which I answer'd, *As or If your R. H. pleases;* for I don't precisely remember the first word. He then proceeded to make the answer, the effect whereof was afterwards reported.

"It falling to my lot to go out of the room last, the Prince stopt me at the door, the other Lords being at some distance, and in a whisper said several things to me of which I do not pretend to remember the very words, especially as I was then in some confusion, and indeed, most tenderly affected with the occasion. But I am sure the substance was, repeating his dutiful disposition to the King, his concern for the present dispute and declaring that he had several times spoke to the Queen on the subject of his allowance. To this I said that I was from the bottom of my heart sorry for this incident. 'But I beg that whatever your R. H. intends to say by way of answer to the message may be said to all the Lords, for no one of us has authority to receive it.' Hereupon I affirm the Prince replied, 'I don't intend this by way of answer; I say it to you, my Lord, that you may make use of it as you shall see proper¹.'

"After this I, with the rest of the Lords, withdrew into the Council Chamber, where it was first considered what was to be done relating to the answer. I acquainted them fully with what had passed between the Prince and me in the whisper, which was, without hesitation, agreed by all not to be considered as part of the answer. It was next with the same unanimity resolved not to pretend to report the very words of the answer as spoken by the Prince, because H. R. H. had deliver'd it with some confusion and with repetition of the same or the like expressions, which

¹ "The Queen was more particularly piqued at the Prince's behaviour on this occasion from a circumstance that did not appear in the drawing up the Prince's answer, which was his stepping forward, whilst the Lords of the Cabinet Council were with him, and saying, in a sort of whisper, to my Lord Chancellor, that he wondered it should be said in the message that he had made no application to the King on this business, when the Queen knew he had often applied to his Majesty through her and that he had been forbidden by the King, ever since the audience he asked of his Majesty two years ago at Kensington relating to his marriage, ever to apply to him again any way, but by the Queen; to which speech of the Prince's Lord Chancellor very prudently made no other answer than asking the Prince aloud if what he had said to him was part of the answer he designed should be conveyed to the King, and if it was, he desired His Royal Highness would be so good as to repeat it to all the Lords of the Council. But the Prince said, 'No, my Lord, I only said it to you to inform you how that matter stood.' The Queen said on this occasion she had always known her son to be the most hardened of Liars" etc. Lord Hervey's *Mem.* iii. 60.

made it impossible, as well as not for his service, to attempt that.

"I think some mention was made whether it was necessary to go back and desire an answer in writing, but it was objected that we had no such instructions; and indeed it was the opinion of all the Lords that it was best to take it as it was, because we had now the Prince's own genuine sense, full of dutiful expressions towards the King, his father, and free from any thing provoking; whereas, if we had given an opportunity for further deliberation, there was danger lest those who had kindled this flame might be advised with, and in the same view might insert something irritating in the answer.

"It was therefore the unanimous opinion of all the Lords to set down in writing the substance of the Prince's answer by way of recital, adhering religiously to the sense and making it as full of respect and duty to the King as the fact would bear, and this from motives equally regarding H. R. H. and the public service. Indeed, I never in my whole life saw a stronger disposition in any set of men to do what might be most just and fit, or most for the real interest of both the royal persons between whom they had been transacting, or to prevent any ill consequences, than appeared in this company on this occasion.

"Thus the answer was settled as printed in the votes of the House of Commons and at night reported by us all to the King, who looked displeased, but said not one word.

"I have in my custody the original message which I read to the Prince and the original answer which I read to the King."

[“His Royal Highness the Prince of Wales return'd a verbal answer, which according to the best recollection and remembrance of the Lords was in substance as follows, viz.:

"That His Royal Highness desired the Lords to lay him with all humility at His Majesty's feet; and to assure His Majesty that he had, and ever should retain, the utmost duty for his Royal Person. That His Royal Highness was very thankful for any instance of His Majesty's goodness to him or the Princess, and particularly for His Majesty's gracious intention of settling a jointure upon Her Royal Highness. But that, as to the message, the affair was now out of his hands and therefore he could not give an answer to it.

"After which His Royal Highness used many dutiful expressions towards His Majesty and then added, ‘Indeed, my Lords, it is in other hands; I am sorry for it,’ or to that effect.

"His Royal Highness concluded with earnestly desiring the

Lords to represent his answer to His Majesty in the most respectful and dutiful manner!¹"]

"Strange work was afterwards made in the House of Commons by endeavouring to mix some things which the Prince had (as above related) said *privately* to me, with the public answer²; but that was not ventured upon in the House of Lords; and the day the debate came on there, my Lord Balmerino³ told me from the Prince that *H. R. H. was sorry for what had pass'd of that kind in the other House, that it was Mr Hodge's mistake and that what he had said to me at the door, he did not intend as part of his answer.*

"Of what passed in the House of Lords I will say nothing here, because it is notorious. The part I took in it was such, as in my conscience I thought right, being convinc'd that the application to Parliament was improper in its nature and pernicious in its consequences. In that view I opposed it upon topics drawn from the dignity and authority of the Crown, and the welfare of the whole royal family wherein, at least, I believed I acted agreeably to that primary duty which I owed to the King, my Master, and that secondary one which I ow'd to the Prince⁴.

"After this the first question which arose at Court relative to this dispute, was the quantum of the Princess's jointure. The King referr'd this to the consideration of the Cabinet Council, and Sir Robert Walpole opened it to us with a declaration that His Majesty was inclin'd to think £30,000 per annum sufficient, but not having form'd any fix'd resolution was desirous to be advised by the Lords. The place I filled obliged me to deliver my opinion first with my reasons at large, upon which I concluded for £50,000 per annum, and afterwards all the Lords *seriatim* declared themselves to be of the same opinion for the reasons given by me.

"In this advice I had two views. First I thought it right and

¹ H. 522, f. 31.

² The debate in the Commons took place on February 22, when Pulteney made a motion for the settlement of £100,000 a year upon the Prince with a jointure on the Princess, which was only defeated by a majority of 234 against 204. The accuracy of the Prince's answer, not having been given in writing, was disputed. *Parl. Hist.* ix. 1352, 1443. — Lord Hervey's *Memoirs*, iii. 70.

³ John Elphinstone, fifth Lord Balmerino (1675-1746).

⁴ Lord Hervey, iii. 86. The motion on behalf of the Prince was made by Lord Carteret. "The Duke of Newcastle took upon him to speak after Lord Carteret, but neither Sir R. Walpole's example in public, nor his documents in private, enabled his Grace to answer him. My Lord Chancellor therefore supplied that part and spoke as well as ever I heard him." The motion was negatived by a majority of 103 to 40.

consistent that the Princess should have the like settlement, as was made on the Queen when Princess of Wales. In the next place, I hoped it might prove a circumstance tending to bring about a larger allowance to the Prince, since the argument would be strong that if £50,000 per annum was judged reasonable for a Dowager Princess of Wales, the same £50,000, together with the Duchy of Cornwall, could hardly be thought sufficient for a Prince and Princess of Wales and the families of both.

" Notwithstanding this, the breach rather widened than closed till the 5th July (1737), [when] a communication was made by letter from the Prince to the Queen that the Princess was with child. Disagreeable circumstances happened afterwards, and it was the common bruit of the court that it was determined in the Prince's family that Her R. H. should lie in in London and not at Hampton Court, the then residence of the King's royal family.

" The manner in which she was hurried away to St James's under the pains of labour, without the least notice to the King or Queen, are [*sic*] well known; a conduct for which I never yet heard any justification or even excuse. The King's resentment produced the message of the 3rd of August, at the settling of which were present, Lord President, Lord Harrington, Sir Robert Walpole and myself. The only part I had in that draft which prevailed was the first sentence expressing the King's joy at the safe delivery of the Princess, for I had proposed one more short and mild in these words, viz.:

" 'The King hath commanded me to acquaint your R. H. that His Majesty is most heartily rejoiced at the safe delivery of the Princess; but that on account of certain circumstances in your Royal Highness's behaviour relating to that event, which have given His Majesty just offence, he thinks it not proper to see you, with the particular reasons thereof he will cause your R. H. to be acquainted in due time.'

" I thought this would shew greater tenderness for the present condition of the Princess and gain time for cooling, before aggravating circumstances were fix'd by being recapitulated in writing.

" However, the draft that was afterwards sent prevail'd, for which my Lord President declar'd himself more explicitly than is usual with him, but Lord Harrington was silent."

[The letter actually sent to the Prince, after the first sentence of congratulation, ran as follows :

"But that your carrying away her Royal Highness from Hampton Court, the then residence of the King, the Queen and the family, under the pains and certain indications of immediate labour, to the imminent danger and hazard both of the Princess and her child [Princess Augusta, the eldest offspring], after sufficient warnings for a week before to have made the necessary preparations for this happy event, without acquainting His Majesty or the Queen with the circumstances the Princess was in, or giving them the least notice of your departure, is looked upon by the King to be such a deliberate indignity offered to him and the Queen, that he has commanded me to acquaint your Royal Highness that he resents it to the highest degree¹"]

"I will not here repeat the several letters sent afterwards by the Prince to the King and Queen, which were declared by persons on that side to contain a full submission, and by the courtiers the contrary.

"But it may not be altogether improper to preserve the memory of a particular incident, which happen'd to myself. On the 4th of August, the day of proroguing the Parliament, I made St James's in my way to Westminster in order to enquire after the health of the Princess of Wales and the new born Princess. After I had perform'd that ceremony I went away, and was overtaken at the further end of Pall Mall by one of the Prince's footmen with a message that H. R. H. desired to speak with me. Being return'd, I was carried into the nursery, whither the Prince came immediately out of the Princess's bedchamber, and hurried all the women out of the room. Having said many civil things and made me sit down, he shew'd me the message he had received the day before from the King, which, he said, he presumed I, being of the Cabinet, must have seen before². Without staying for an answer, he made a long apology for his conduct much to the effect of his first letter to the King; with this addition that, if the King, who was apt sometimes to be pretty quick, should have objected to her going to London and an altercation should have arisen, what a condition would the poor Princess have been in? He then said he would read me two

¹ Coxe's *Walpole*, i. 534; Lord Hervey, iii. 193.

² "Sir Robert Walpole said...that, to his knowledge, the Prince had within these few days asked one of the King's ministers (which was my Lord Chancellor) whether he had any hand in the message the King had sent him, intimating at the same time his great indignation against those who had. This also the Queen told Lord Hervey, saying at the same time, this was such a degree of insolence, to pretend to question and bully and frighten the King's ministers as was not to be suffered, and added that it was high time His Royal Highness should be well lashed. Lord Hervey agreed with her...." Hervey, iii. 204. We see here how such incidents as those described in the text were exaggerated and distorted.

letters he had written, the one to the King and the other to the Queen, whereupon I asked him whether they had been sent; for if they had not, I was determined in my own mind not to have seen or heard them read. He answer'd they were sent the day before by my Lord Jersey, and then read them. He asked me what I thought of them, at which I bowed and said nothing. He went on, that upon those letters the King sent word he would not see him; but he did not think fit to let it rest there for his part, and had sent another letter to Lord Carnarvon that morning, which he read, and asked me if it was not very respectful. To this I answered *Very respectful*; and, indeed, it was a much more proper letter than the former. I then proceeded to tell H. R. H. that I had heard nothing of this unhappy affair till my going to Hampton Court of the Tuesday before to congratulate the King and Queen on the birth of their grand-daughter. That I then found their Majesties highly offended at what had pass'd; and I should be unjust to H. R. H., if I concealed from him that from the circumstances preceding and accompanying the carrying away the Princess, they understood it to proceed from a deliberate intention to take that part without their privity. I added that incidents of this nature gave the deepest concern and affliction to everyone who wish'd well to the whole royal family, and to none more than myself; that every occasion of this kind ought to be removed, for that *union* in the royal family was most essential to the true interest and preservation of it; that the contrary gave the most formidable advantages to their enemies, whereas any branch of it, when united, nothing could hurt; that I hoped H. R. H. would show such a submission and dutiful behaviour to the King, his Father, at the present juncture, as would tend to bring about this union, and that I was sure it would be the zealous endeavour of the King's servants, and in particular of myself, to do everything that might facilitate it. He answered, *My Lord, I don't doubt you in the least, for I believe you to be a very honest man*; and as I was rising up embrac'd me, offering to kiss me. I instantly kneeled down and kiss'd his hand, whereupon he rais'd me up and kissed my cheek. The scene had something in it moving, and my heart was full of the melancholy prospect that I thought lay before me, which made me almost burst into tears. The Prince observed this and appeared moved himself, and said, *Let us sit down, my Lord, a little and recollect ourselves that we may not go out thus*; soon after which I took my leave, and went directly to the House of Lords.

" After the other message concerning the christening, the Prince sent two letters more¹. That to the King went further than the former, calling what he had done a fault, and asking pardon for it; but particular exception was taken against that to the Queen, as carrying an implication that the King's not being reconciled to his son was owing to her. I own I thought this a strain'd construction and did not scruple to say so, but I soon found that the partizans on either side had no mind to make up the breach. On the side of the Prince, those who wanted to set him at the head of the opposition against his Father's measures, seem'd to have it in view to write such letters to the King as might read well and, when published to the world, be taken as a submission, and at the same time effectually to prevent that from being accepted by provoking the Queen and thereby cut off the chance of mediation, and shut the only door thro' which any reconciliation could enter. On the other side, Sir Robert Walpole seemed to think that they had now an advantage over the Prince which ought not to be parted with; and that it would be better for the administration to have a total declar'd separation than that things should remain in the precarious doubtful state in which they then stood.

" My wish and sincere view was that an absolute, complete reconciliation should be brought about as essential to the King and his family and the whole nation; and I was persuaded that fatal mischiefs and infinite difficulties would arise from the breach being made wider by a total separation. From hence I thought it my duty to explain my thoughts fully on this head to Sir Robert Walpole as the King's chief Minister, and for that purpose went over to New Park early on the 24th of August.

" I began² with laying it down as a principle that in this nice affair two great points were always to be pursued, first the real and essential interest of the King and his family in which the whole Kingdom was involved, and next the support of that authority and reverence which was due to His Majesty; that it was the duty of his ministers and servants to endeavour to combine both these views, and in their conduct not to lose sight of either; that I could not help thinking that if there was a disposition to it, a reconciliation might be effected consistently with both; but if that should be found impossible, a total separation must indeed be

¹ Printed in Lord Hervey's *Mem.* iii. 225. One objection to the Prince's letter to the Queen was the "silly omission" in not styling her "Your Majesty."

² Also Coxe's *Walpole*, i. 535.

submitted to. However, I begged leave to lay before him several considerations which seemed to me very material in this great question, some whereof distinguish'd the case from that of the quarrel in the late reign, and made the present breach more formidable.

" 1. That it ought to be considered what influence it would have on the question, which had been once moved in Parliament and was expected to be brought there again, viz.:—the Prince's demand of a larger allowance; and this upon different suppositions. It appeared to me that, if the King should be finally in the right and the Prince continue, as he was certainly at first on the affair of the departure, in the wrong, it would strengthen the King as to that question; for nobody could, with any shadow of reason maintain that the King could with decency be addressed to increase his son's allowance whilst he was standing out in defiance. But on the other hand, it must be attended to that this offence was such as to admit of a satisfaction between a father and a son; and if the world should think the Prince had made a proper submission, and yet the King turn him out of doors, it would strengthen the Prince in his demand; since it might then be said that the King had causelessly obliged him to live by himself with an increase of family at a greater expense. I added that it must be expected that even those, who least wished a reconciliation, would advise him to make such a submission, when they were sure it could not, or would not, be accepted.

" 2. That in the next place, the situation and circumstances of the royal family deserv'd the greatest attention. In the late reign the difference concern'd only the King and Prince; there were no other children to be affected by it; the moment the breath was out of the late King's body it was at an end as to the royal family, tho' particular subjects might feel its effects; that now the case was far different. A Queen Consort, the Duke [of Cumberland] and four Princesses, not to include the Princess of Orange¹, will certainly be to a degree involv'd in it. If the Prince should survive his Father, he must, and ought, by the course of law and nature, to reign. All these will be more or less in his power; the Queen possibly least of all, but how far the honeymoon of a new reign may carry men as to her large jointure none can foresee. The others absolutely. Yet these must now, as they justly deserve.

¹ Anne, Princess Royal, married 1734 William, Prince of Orange, later Stadholder, and died 1759.

live at Court, in the sunshine of the King and Queen's favour, the Prince being excluded. This will naturally breed an alienation of affection, great envying and much ill-blood, which may break out into fatal consequences, when the Prince shall find himself their Sovereign. Add to this, that it is not probable that any settlement will ever be obtain'd from the Parliament to make cadets of the royal family independent of the person who shall wear the Crown.

"(Memorandum, that on the 18th August, in an audience with which the Queen was pleas'd to honour me, I press'd those considerations on Her Majesty as points of the last importance to herself and her children.)

"3. Consider next the case of the Prince's children. Either the King must take the custody of them or leave them with H. R. H. If he should take them, having a favourite younger son and several daughters justly dear to him, what jealousies and suspicions may not arise in case of accidents. Malice may even suggest, what was once believed in France of the late Duke of Orleans¹. If the King should suffer those branches of the royal family to remain with the Prince, will it not greatly weaken the former and strengthen the latter? And at length they will be bred up under the same influence, which is now objected to in their Father².

"4. As to the administration, what an inundation of pensions did the breach in the late reign introduce? What a weight did that bring on my Lord Sunderland's ministry³? And it should be considered whether even that miserable expedient will be found practicable under this King. The present demands of mankind will rise on one side in proportion as greater hopes are held out to them on the other. It put Lord Sunderland on strong measures to secure himself, which yet he could not carry; witness the Peerage Bill, wherein were several right provisions tempting to the Whigs, and yet they rejected it⁴.

"5. It will make a coalition between the Whigs desperate and impossible. Before this the Whigs in the opposition wanted a head,

¹ Brother of Louis XIV, married Henrietta, sister of Charles II, and, on account of her sudden death, was suspected without reason of having poisoned her.

² The sequel justified to the fullest extent these fears and warnings.

³ Charles Spencer, third Earl (1674-1722), first Lord of the Treasury 1718-21.

⁴ Introduced in 1719, in consequence of the creation of the twelve peers by the Tories to secure a majority in the Lords in 1711. It restricted the power of the Crown to create peers, the Lords giving up some minor privileges. It was thrown out mainly owing to the opposition of Walpole himself, who seized the occasion to strike at the government. Stanhope, *Hist. of England*, i. 530 sqq.

because liable to the disagreeable imputation of constantly acting with the Jacobites, and had no prospect of ever coming into any share of power but by reuniting with their old friends. They will now find a head in the Prince, and he, being the immediate successor in the Protestant line, will be an irrefragible answer to the reproach of Jacobitism which I have mention'd¹. Besides, the Whigs as a party will, in good policy, not wish such a coalition, unless it could be accompanied with a reconciliation between the father and son, lest it should throw the successor wholly into the hands of the Tories, and make their cause desperate when he comes to the possession²; whereas, by having one set of Whigs in the Prince's favour, the party will have a fair chance to be preserved from ruin when that event shall arrive.

"6. Lastly, it must not be forgot that if the King should carry his resentment so far as to remove his son out of his palace, it will be necessary that some account of a transaction of this high nature in the royal family should be given to foreign courts. This measure was taken in the late reign. If the Prince should at length fully submit himself to his Father, and do that which the world shall judge a complete satisfaction for the late offence, what reasons can be openly assign'd to justify such a conduct? I will not say that reasons may not be suggested from a series of conduct offensive and provoking in many other respects; but when those come to [be] coolly examin'd, I doubt they will be found such, as it will be extremely difficult, if not impossible, publicly to avow and explain.

"Upon these several heads I enlarged to the minister much more fully than is here recited. He expressly allow'd them all to be considerations of great weight, without attempting to take off their force, except as to the Prince's children, which he said were intended to be left with their parents, whilst of tender age, only for nurture. The great point on which he laid his stress was that the King had now an advantage by the Prince having put himself so much in the wrong, which ought not to be parted with³. That he

¹ On the other hand, the advent of the Hanoverian Prince as chief of the party of opposition to Walpole, proved ultimately the chief cause of its failure, since it alienated the Jacobites.

² This was of course what actually happened at George III's accession; see below, chap. xxx.

³ See also above, p. 172. Sir R. Walpole regarded the breach in the royal family merely as a politician and not as a statesman, as a fortunate opportunity of consolidating his own power at Court by identifying the Prince with the opposition to his own government, thus involving his political antagonists in the King's displeasure. On

was apprehensive there must be a total breach before there could be a complete reconciliation¹; and to make up the particular difference about carrying away the Princess from Hampton Court without the grand point, would not be so much as skinning over the sore, which would infallibly break out again worse than ever; that it was impossible to reconcile the whole without *the money*, and that could not now be obtained; neither was it fit to advise the King to make such an advance until his son, by proper acts of submission and a declared alteration of conduct, should put himself in a condition to receive it.

"As to the submission already made, he enlarged much on the offensive behaviour to the Queen, and in particular objected that, although the King in his message had charged the fact *to be a high indignity to himself and the Queen*, the Prince had not, in any of his letters, ask'd her pardon, or so much as made an excuse to Her Majesty for what he had done.

"Hereupon I took occasion to observe that this was manifestly the game of those advisers of the Prince, who intended to prevent a reconciliation; and as this last was their point, they could not play their cards better; that consequently, the most effectual method of disappointing it must be the best play on the other side; and as the Queen had great talents as well as great power with the King, would it not become her wisdom to suppress the woman's resentment and take the contrary part to that into which these men wished to drive her? That in my opinion, if Her Majesty continued unmoved by their ill usage, and in spite of all their provocations, would reconcile the father to his son, she would endear herself to the nation more than ever, and make an absolute conquest of all her enemies at once.

"The next day the Dukes of Grafton, Devonshire and Newcastle and Mr Pelham din'd at New Park with Sir Robert Walpole, who told them that I had made him a long visit the day before and had talked to him like an angel for an hour together on the subject

the other hand, any attempt on his part to oppose the King's resentment against his son would have immediately jeopardised his influence (Hervey, iii. 182, 203, 253). The same game was being played on the other side, e.g. Chesterfield's letter to Lyttelton, November 15, 1737, instigating the renewal of the struggle in Parliament (Mem. of Lord Lyttelton, 89). In such circumstances, the efforts of the peace-maker were doomed to failure.

¹ "If there must be a quarrel, he thought it better it should be an open than a concealed one." Sir R. Walpole to Lord Hardwicke, related by the latter's son in *Walpoliana* (1783), 13.

of the Prince, but he thought all my arguments made for *his conclusion* rather than *mine*.

“Nescia mens hominum fati sortisque futurae
Et servare modum, rebus sublata secundis,
Turno tempus erit, magno cum optaverit emptum
Intactum Pallanta, et cum spolia ista diemque
Oderit.

“On Monday, the 5th of September, I was desir'd to meet Sir Robert Walpole at Hampton Court, with only the Duke of Newcastle and Mr Pelham. There the minister produc'd two other letters sent by the Prince to the King and Queen respectively after the christening¹, and acquainted us that the King was not in the least satisfied with any of the submissions his son had hitherto made; that with regard to His Majesty himself, they were mere words, and calculated to be offensive and provoking to the Queen; that none of the letters contain'd any assurance for a change of conduct or of acting in subordination to his Father's will for the future; that His R. H. was entirely under the influence and direction of persons whom His Majesty had thought fit to remove from his councils and service, and who were in a determined opposition to all his measures, and that Lord Chesterfield and Lord Carteret were known to be with him in private every day, and were called into his closet after the Levee, as regularly as the King's ministers were called into his. He recapitulated many particulars to show that the Prince had avowedly set himself at the head of a faction in opposition to the King, and therefore that these letters were understood by the King to proceed from their dictates and to be intended only to amuse and deceive him; that things being in this situation, the King had come to a resolution not to permit his son to reside any longer in his palace, but to send him an order to depart with his whole family, as soon as it could be done without prejudice or inconvenience to the Princess, and had commanded him to prepare a draft of a message to that purpose which he read to us.

“We all expressed our concern at this extremity, and our opinion that it should be avoided, if possible to be done, saving the King's honour. But we were told it was the King's fix'd resolution, upon which I said that I had already at large declar'd my sentiments, as to the measure and its consequences, some of which I repeated; and then it was propos'd that before any such order was sent, a message should be sent to the Prince, informing

¹ Printed in Hervey, iii. 229.

him what kind of submission the King expected from him, and what alterations in his conduct His Majesty required as the terms of a reconciliation. But it was answered by Sir Robert Walpole that this would only beget mutual altercations and a paper war between the King and his son, which would be worse than taking it short at first.

"We then proceeded to consider the draft of the message, which had many stinging epithets and expressions, and a paragraph towards the conclusion containing a severe reproach on *persons in general* resorting to the Prince, who did not pay their court to the King, but opposed his measures, calling them a faction, with other strong and harsh words. To all these I objected as a style improper between Princes, and indecent from the King to his son. I thought, if a message of this nature must go, it should be strong, but full of decorum. Sir Robert Walpole declared his opinion that as the Prince had plainly set himself at the head of the opposition, it was right to carry the war into the enemy's country ; and as they attack'd the King thro' the sides of his ministers, to return it by falling on the Prince's advisers. To this I replied that, as to such advisers as fomented this fatal division in the royal family, the harshest words, which language could furnish, were not too much ; but my objection was that, as the draft then stood, it comprised more, and might extend to all that came to the Prince, who happen'd to differ from the King's ministers in Parliament and did not come to Court ; that this would include some persons of the first quality and estates in the Kingdom, besides great numbers of others who were only misguided ; and as it was probable this paper might one time or other come before the Parliament, it might give rise to very disagreeable debates and questions there. The Duke of Newcastle and Mr Pelham fell in with my opinion, whereupon most of those expressions and epithets were at length struck out and that remarkable paragraph entirely chang'd and confin'd to the *advisers* of the Prince, *who fomented the division in the royal family and thereby weakened the common interest of the whole*, or words to that effect.

"Before we parted it was agreed that a meeting of the whole Cabinet Council should be held on Friday, the 9th of September, at 10 o'clock in the morning, to consider of this weighty affair, and the Lords summon'd the next morning (being Tuesday) to the end they might not want sufficient notice.

"This day Sir Robert Walpole inform'd me of certain passages

between the King and himself and between the Queen and the Prince, of too high and secret a nature even to be trusted to this narrative; but from thence I found great reason to think that this unhappy difference between the King and the Queen and H. R. H. turned upon some points of a more interesting and important nature than have hitherto appeared*.

"On Friday, the 9th of September, the Cabinet Council met, at which were present the Archbishop of Canterbury, Lord Chancellor, Lord Godolphin (Lord Privy Seal), Duke of Grafton (Lord Chamberlain), Duke of Richmond (Master of the Horse), Duke of Newcastle, Earl of Pembroke (Groom of the Stole), Earl of Ilay, Lord Harrington, Sir Robert Walpole and Sir Charles Wager**. Sir Robert Walpole opened the occasion of the meeting, and by the King's command acquainted the Lords with the several causes of displeasure which His Majesty had conceiv'd against the Prince; that for these reasons *His Majesty was of opinion that the families must (or should) be separated, and desired their Lordships' advice as to the method of doing it*; that His Majesty had order'd him to prepare a draft of a message to be sent to H. R. H. for this purpose, which he had shew'd the King the day before, and his Majesty had approved of; but Sir Robert took care to let the Lords know that the King thought the style of the draft full gentle enough. Then he read the several letters from the Prince to the King and also those to the Queen, and remarked upon the differences between those accounts of the fact which the Prince gave to the Queen, as well as to my Lord Harrington and himself, the morning after the labour, (which last he read from some minutes wherein both he and Lord Harrington agreed,) and the narrative contain'd in his first letter to the King. He laid much stress on these letters being only specious, empty words, without any assurances of an alteration

* I asked my Father the meaning of the dark insinuations in this paragraph, but he protested he did not then recollect the particulars. II.

[They probably refer to the suspicions of the King and Queen that the Prince intended to foist a supposititious child upon them, to which the Prince's inexcusable conduct in hurrying away the Princess from Hampton Court gave some colour. Hervey, iii. 165. The King affected to believe the Prince himself to be a *changeling* (*ib.* 276), and in 1725 had supported a plan of excluding the Prince from the Throne, of making him King of Hanover and of choosing Prince William to be King of Great Britain (Lord Ch. King's *Diary*, June 24, 1725, printed in King's *Life of Locke*, and Croker's edition of Lord Hervey's *Mem.* ix.). But we are never told by the latter, or by any other contemporary writer, the *original cause* of the strange hatred of the King and Queen for their son.]

** D. of Devon, gone for Ireland; D. of Dorset at Namur; D. of Argyll in Oxfordshire; L. President in Sussex; E. of Scarbrough in Yorkshire, and not sufficiently recovered to attend business.

of conduct, and on the variances between the letters to the King and those to the Queen; particularly that in the two last to Her Majesty, the words *Your Majesty* were never used but *Madame* and *vous* only. Lastly he read the draft of the message.

"It appeared by the looks and expressions of all the Lords present that they understood this, as they had reason, to be a communication of the King's determin'd resolution and pleasure, who was undoubtedly master of his family; and as he had been highly offended, was to judge for himself how far he would forgive or resent. They took it, according to the expression before-mention'd, that their advice was asked as to the *method* not the *measure*, and therefore set themselves to consider the draft, to which some few exceptions were taken. Two were made by myself, viz.:—in the first paragraph, to the words *I cannot suffer myself to be imposed upon by them*, which seem'd to me too harsh and not adequate to the dignity of the persons concerned, and to the word *rendezvous*, towards the end, as being too low and coarse. In the room of the first I had before proposed to insert, *I cannot, consistently with my own honour and authority, suffer them to have any weight with me*; but in this I could not prevail. As to the term *rendezvous*, all the Lords concurring with me, it was left out, and the word *resort* was permitted to stand alone. The words, *You shall not reside in my palace*, were inserted on the proposal of the Archbishop, in the room whereof my Lord Godolphin offer'd, *I think it not fit that you should reside in my palace*, of which I declared my approbation as expressing the King's opinion and properly introductory of his subsequent command to leave St James's. But Sir Robert Walpole assured us those words would not be thought strong enough.

"Some few verbal alterations of little consequence were made, and so the message was agreed to, being in substance exactly the same as it had been laid before the Lords, and was submitted to the consideration of His Majesty, from whom it came to us."

[The document was as follows¹:

"George R.

"The professions you have lately made in your letters of your particular regard to me are so contradictory to all your actions, that I cannot suffer myself to be imposed upon by them.

"You know very well, you did not give the least intimation to me or to the Queen that the Princess was with child or breeding, until less than a month of the birth of a young Princess. You

¹ II. 522, f. 33; Hervey, iii. 236; and cf. 232.

removed the Princess twice in the week immediately preceding the day of her delivery, from the place of my residence, in expectation, as you have voluntarily declared, of her labour; and both times, upon your return, you industriously concealed from the knowledge of me and the Queen, every circumstance relating to this important affair; and you, at last, without giving any notice to me or to the Queen, precipitately hurried the Princess from Hampton Court in a condition not to be named. After having thus, in execution of your own determined measures, exposed both the Princess and her child to the greatest perils, you now plead surprise and your tenderness for the Princess as the only motives that occasion'd these repeated indignities offer'd to me and to the Queen, your mother.

"This extravagant and undutiful behaviour, in so essential a point as the birth of an heir to my crown, is such an evidence of your premeditated defiance of me, and such a contempt of my authority and of the natural right belonging to your parents, as cannot be excused by the pretended innocence of your intentions, nor palliated or disguised by specious words only.

"But the whole tenour of your conduct for a considerable time has been so entirely void of all real duty to me that I have long had reason to be highly offended with you.

"And until you withdraw your regard and confidence from those, by whose instigation and advice you are directed and encouraged in your unwarrantable behaviour to me and to the Queen, and until you return to your duty, you shall not reside in my palace, which I will not suffer to be made the resort of them who, under the appearance of attachment to you, foment the division which you have made in my family, and therefore weaken the common interest of the whole.

"In this situation I will receive no reply. But when your actions manifest a just sense of your duty and submission, that may induce me to pardon what at present I most justly resent.

"In the meantime it is my pleasure that you leave St James's, with all your family, when it can be done without prejudice or inconvenience to the Princess.

"I shall, for the present, leave to the Princess the care of my grand-daughter, until a proper time calls upon me to consider of her education. G. R."]

"The manner of sending it to the Prince was proposed to be by a message signed by the King at the top with his name at length, and with the two first letters at the bottom after the form of instructions; and that an order sign'd by His Majesty should be delivered to the persons who should be charged with carrying it, reciting the message *in haec verba* and commanding them to read it to, and leave it with, H. R. H.

"It was also agreed that copies of this message should be privately deliver'd to the several foreign ministers residing at this

court and other copies sent to the King's ministers residing abroad, as a *species facti*, or narrative, of the King's reasons for this proceeding with his son.

"Other particulars were mention'd, and it seem'd to be the general sense of the Lords that they should be regulated in like manner as upon the separation in the last reign; but it was thought proper to leave them to the personal discretion of the King himself, without offering any particular advice thereupon.

"On Saturday, September 10th, this message, signed as before mentioned, was sent to H. R. H. by the Duke of Grafton, Duke of Richmond and Earl of Pembroke, who had such a signed order, as is described above, for their justification."—

This message of September 10 was followed by the notice below:

"Sept: 12th, 1737. Notice not to go to the Court of the Prince or Princess of Wales.

"Notice is hereby given to all peers, peeresses, privy councillors and their ladies and other persons in any station in the service of the King and Queen, that whoever goes to pay their Court to their Royal Highnesses, Prince or Princess of Wales, will not be admitted into their Majesties' presence!"

A few weeks later, on November 20, 1737, the Queen died, without seeing the Prince. The latter sent an intimation to the Chancellor, through Lord North, of his desire to be chief mourner at her funeral, but Lord Hardwicke was obliged to answer that the King had already chosen the Princess Amelia, an appointment which was, apparently, strictly in accordance with etiquette¹.

In the event, some part of the ill results arising from this unfortunate breach in the Royal Family, as foretold by Lord Hardwicke, who earnestly strove to repair it, was avoided by the early death of the Prince; but the Princess survived to inculcate in her son a hatred of the Whig ministers and of Whig principles, with what success and with what deplorable consequences we shall see hereafter.

During the course of this unhappy affair, the Chancellor had spoken on several occasions in the House of Lords. He had taken his seat on the Woolsack on February 21, the same day that he received the Great Seal from the King, proceeding to the House directly from the Court².

He gave strong support to the ministers in their resolution to

¹ H. 522, f. 36.

² H. 238, ff. 43, 47.

³ H. 694, f. 86.

convict and punish the authors of the Porteous outrage, and the authorities who had failed in their public duties¹. He drew up a bill imprisoning and disabling the provost and the baillies of Edinburgh from holding office, and ordering the demolition of the city gates and the abolition of the town guard. It was strongly opposed by the Scottish interest, and notably by the Duke of Argyll² and his brother Lord Islay. To Sir Robert Walpole the latter, according to Lord Hervey³, declared that "My Lord Chancellor abused Scotland every day in such strong invectives and behaved himself with such pride and arrogance, that there was really no temper could bear it with patience," and demanded, "whether for the sake of Lord Chancellor's and the Duke of Newcastle's pique to him, he would resolve for the future to rule Scotland upon the foot of a conquered country." In the House of Lords some passages of arms passed between the Chancellor and the Duke of Argyll, "carried on," says Lord Hervey, "with as great decency as if there had been no rancour, and to a discerning eye with as much rancour as if there had been no decency." The Chancellor, in his reply to the Duke, had reflected upon "racers for popularity" and persons, who were actuated by factious instead of national interests, and these expressions were taken by the Duke as intended for himself. He repudiated them with warmth, and hoped that he had mistaken the application; because he had never failed to express the greatest friendship, he might say love and esteem, for Lord Hardwicke's person, as he had always entertained the highest respect for his station and character. The Chancellor replied handsomely that the Duke, of whose candour, integrity and abilities he entertained the highest opinion, was the last man in the world to whom his remarks were to be applied, which were intended in a general sense only⁴.

The Duke of Argyll soon after openly joined the ranks of the opposition, and was dismissed from the army in 1739⁵; but his friendship and respect for the Chancellor remained unimpaired by political differences. Writing on September 15, 1740, Lord Glenorchy, after speaking of the discontent and ferment amongst the people in Scotland against the government, and at the same time of the regard felt generally for the Chancellor, adds, "The Duke of Argyll desired me to make his compliments to you *not as a minister but as a gentleman*"⁶.

¹ p. 152 *n.*

⁴ *Parl. Hist.* x. 246.

² p. 304 *n.*

⁵ H. 238, f. 229.

³ *Mem.* iii. 99 seq.

⁶ H. 102, f. 6.

The penalties inflicted by the bill certainly do not seem of undue severity, considering the lawless and brutal nature of the outrage, and the weakness of the authorities. Meeting, however, with great opposition from the Scottish, as well as the Tory members, of the House of Commons, the measure, with Sir Robert Walpole's consent, but greatly to the Chancellor's concern, was whittled down to the disabling of the Provost Wilson from holding office, and to the payment of the insignificant fine of £2000, by the town of Edinburgh, to the widow of the unfortunate victim¹.

During the course of this debate, an interesting technical point had been raised as to whether the Scottish judges, who had been desired to attend the House of Lords to give evidence in this case, should, like the English judges, who were summoned by the King's writ, be heard from the woolsacks within the House, or standing at the Bar. The Chancellor spoke and voted against their claim and it was rejected by 63 votes to 51, as was also a further proposal that they should be distinguished by being heard from the table. The Duke of Newcastle voted in the other lobby, and it is probable that this was the only occasion on which they were separated on a division².

The next year heated discussions were held in both Houses on the occasion of the renewal of the annual militia bill, which was made a pretext by the opposition for moving the reduction of the army from 18,000 to 12,000 men. In the Lords, a great debate took place on March 9, 1738, in which the different attitudes and tempers of the speakers were vividly manifested. Lords Chesterfield and Carteret ridiculed the idea of danger to the State, either from domestic disturbance or from foreign attack, deplored the increase of expenditure and declaimed in brilliant oratory against a standing army in time of peace. The Chancellor wound up the debate and spoke in a very different tone. He showed a wise appreciation of the dangers which impended both from enemies abroad and from malcontents at home, and was not afraid to state openly that one of the objects of the administration in maintaining the army at its present strength was to quell domestic and popular disturbances.

At this period the army was practically the only force to which the civil power could have recourse for the common protection

¹ Coxe's *Walpole*, i. 493; iii. 360 sqq.

² G. W. T. Omond, *The Lord Advocates of Scotland*, i. 354 and see chap. xxvi., D. Forbes to H. Aug. 7, 1739 sqq.

of life and property. It was not till a much later time that a permanent and proficient police was established, capable of dealing with all ordinary cases of disorder and crime. But the most striking parts in the Chancellor's speech were those in which he alluded to the probability of another Jacobite attempt, and warned the Lords of the greater chances which would attend such an enterprise compared with earlier ones, unless crushed at once by an armed force¹. The motion was finally negatived by 99 votes to 35.

The opposition were much more successful in their next move against the government. Profiting by numerous complaints of the action of the Spaniards on the high seas, who exercised their right of searching English vessels suspected of contraband, they inflamed public opinion with great art, and succeeded in rousing formidable passions among the people, who clamoured for revenge and an immediate declaration of war. No doubt there are occasions when a great nation for the sake of its honour and its interests, or to avenge intolerable wrongs, may feel itself compelled to embark upon a war, and may rightly refuse to delay its action by conferences and discussions. The political dispute, however, between Spain and England at this period was one eminently adapted to the exercise of diplomacy and negotiation between the ministers of the two countries. Though Spain still remained a colonial and commercial rival in the New World², it was not for the interest of England to engage in a costly war to further weaken one of the already weaker powers of Europe; still less, to throw that power into the arms of France and thus create a formidable combination to menace this country. Faults had been committed on both sides, as was well known to all better informed persons, and were all the accounts of Spanish cruelty and violence, including the celebrated incident of "Jenkins's Ear," well-founded, there existed also undoubted instances of similar outrages perpetrated by British subjects³. The conditions—ill-defined as certain of these were—

¹ *Parl. Hist.* x. 479 sqq. and 555; Sir R. Walpole expressed the same opinion to Lord Hervey, *Hervey's Mem.* ii. 256.

² See II. 561, f. 76.

³ According to the story, Jenkins was ill-treated by the Spaniards, who cut off one of his ears, and being asked concerning his feelings in this disagreeable situation, he answered, "I recommended my soul to God and my cause to my Country"; and this reply, together with the ear wrapped in cotton, aroused fierce indignation against the "barbarians." But cf. the anecdote quoted by Coxe, *Walpole*, i. 580 n.; and the correspondence quoted in the *English Hist. Review*, iv. 742, Rear Ad. Charles Stewart to the Duke of Newcastle, from Port Royal, October 12, 1731, "It is without doubt irksome to every honest man to hear such cruelties are committed in these seas; but give me leave

laid down by the treaties of 1667 and 1670, had been systematically violated by the British captains and traders¹. The matter was further complicated by claims made by the Spanish government against the South Sea Company, and by a dispute between the two nations concerning the boundaries of Carolina and Florida and the privilege of cutting log wood. The occasion, therefore, was obviously one which demanded the coolness, patience and resource of diplomacy, and not a hasty and ill-considered rush into hostilities.

Various circumstances, however, made it impossible for wiser councils to prevail. Serious negotiations, owing to the procrastinating habits of the Spanish Court, had little chance of success. A secret family compact had been signed between France and Spain in 1733, with the aim of resisting the power of Great Britain. Moreover, Sir Thomas Fitzgerald, commonly called Geraldino, the Spanish Envoy, was completely in the hands of the opposition; and was more occupied with factious intrigues against Walpole than with the proper object of his mission. The King himself was inflamed with an ardent desire for military distinction, tired of treaties and dispatches and envious of the martial glory of his nephew, the King of Prussia², with whom he had already had some small, but violent German disputes concerning the improper enlistment of Hanoverians for the Prussian army, some cart loads of hay and a mill³. Popular opinion was strong in favour of the war. Such tendencies could only be resisted by a firm and united ministry. A serious difference of opinion, however, in the Cabinet now declared itself. Sir Robert himself was for peace at any price. He was "averse to war from opinion, from interest, and from fear of the Pretender," writes the second Lord Hardwicke in *Walpoliana*. "He told Mr Onslow (the late speaker) that he was not cut out to carry the truncheon ; that if there was a war, the King's crown would be fought for on this land." He believed not only that war would give a fatal blow to his own power, but that it would involve the country in all those foreign and domestic risks and dangers from which it is the particular glory of his rule that he had so successfully defended it. He desired his fame to rest on the long and happy peace which he had secured for his countrymen.

to say that you only hear one side of the question ; and I can assure you the sloops that sail from this island, manned and armed on that illicit trade, has [sic] more than once bragged to me of their having murdered seven or eight Spaniards on their own shore."

¹ Hervey, *Mem.* iii. 288 ; Coxe's *Walpole*, i. 560.

² Hervey, ii. 35.

³ *Ib.* i. 127.

"Madam," he told the Queen in 1734, "there are 50,000 men slain this year in Europe and not one Englishman...England remains in its full and unimpaired vigour!" The Duke of Newcastle, on the other hand, who throughout his career showed himself in favour of a "forward" policy in foreign affairs, was for war, or at least for an uncompromising insistence upon the claims now put forward against Spain. According to the custom of the day, he did not quit the administration, but endeavoured to press his views upon the Cabinet, spoke in favour of war in the House of Lords, and dispatched some strong instructions to Keene, the British minister at Madrid.

Lord Hardwicke's attitude was somewhat different from either. He earnestly desired to avoid war, and saw all its perils and evils at that period for the nation, but at the same time perceived also the peculiar dangers of Sir Robert's policy of peace at any cost, and at any sacrifice. In the earlier stages of the discussion he supported Walpole². In the debate in the Lords, on May 2, 1738, he endeavoured, though unsuccessfully, to moderate the terms of the address to the King, pressed upon the House by Lord Carteret and others. He disapproved especially, but in vain, of the denial, in the address to the Crown, of the right of search for contraband goods which, in his opinion, between friendly states, could not be deemed an infraction of treaties or a violation of the law of nations, and the rejection of which was a deliberate challenge to the Court of Spain³.

Great efforts were made after the prorogation of Parliament by Sir Robert Walpole to stave off the war, while yielding so far to the Duke of Newcastle and the war party as to send ships, not only to the Mediterranean, but to the West Indies. At the beginning of 1739, the celebrated Convention was signed with Spain. The English claims, which shrunk away to an insignificant sum of £95,000, while £68,000 was demanded by Spain as due from the South Sea Company, were by no means satisfied, and all the questions in dispute were postponed for settlement, within a reasonable

¹ Hervey, ii. 62, 40. See also *Hist. MSS. Comm.*, Earl of Carlisle, 150, where Sir Robert is reported as making, in the House of Commons, in February 1735, the "comfortable reflexion that 100,000 men had already perished in the war (50,000 of them French) and many millions of money expended, yet not one drop of English blood spilt or one shilling of English money spent in it."

² p. 216.

³ *Parl. Hist.* x. 754; N. 7, f. 280 and H. 58, f. 148, a long memorandum sent by the Chancellor to the D. of N. on this point as laid down in the treaty of Utrecht and former treaties.

period, to a further conference. But provided that Spain was in earnest in desiring a peaceful accommodation, the Convention was a judicious temporary expedient, "a right preliminary measure" to a subsequent final treaty, and as such it was supported by the Chancellor, who had a considerable share in the drafting and final wording¹.

The country, however, and the Parliament were in no mood to acquiesce in the delays of negotiation, and on the opening of the new session, in February 1739, fresh attacks were made upon the ministers in both Houses, whose policy was defended by the Chancellor².

These, however, were mere preliminary skirmishes to the celebrated debate on the Convention, which took place in the Lords on March 1, 1739, one of the most striking, perhaps, in the annals of Parliament, and of which the scanty reports still give us some idea of the dramatic interest aroused and of the talents and eloquence then displayed³. The opposition were in a position of great advantage, as far as superiority in oratory was concerned. It is always an easy and a grateful task to uphold in glowing terms the honour of the nation, when no responsibility is involved; and no subject lends itself to more brilliant declamation than a call to arms. On the other hand, the ministers had the less showy but the more arduous duty of defending a modest temporary measure of accommodation, which could only find its justification in future developements. The orators, too, were all on the side of the opposition. Lords Carteret and Chesterfield both made great speeches, inspired by the presence of the Prince of Wales, who remained during the debate and voted against the government, and by a body of ladies who succeeded in forcing an entrance into the House in spite of the Chancellor's orders to prevent their admittance, and who showed their sympathies by alternate applause and derisive laughter⁴. Lord Chesterfield in particular surpassed himself in

¹ He declined to draw it on August 17, 1738, N. 6, f. 301; but see his alterations and objections in H. 58, ff. 49-148, esp. f. 62, and N. 6, f. 444, 450, and N. 7, ff. 27, 352.

² *Parl. Hist.* x. 1048.

³ *Ib.* 1091; H. 257, f. 10.

⁴ "The Heroines...presented themselves at the door at nine o'clock in the morning, where Sir William Saunderson [Yeoman Usher of the Black Rod] respectfully informed them the Chancellor had made an order against their admittance. The Duchess of Queensberry, as head of the squadron, pished at the ill-breeding of a mere lawyer, and desired him to let them upstairs privately. After some modest refusals, he swore by G—— he would not let them in. Her Grace, with a noble warmth answered by G—— they would come in in spite of the Chancellor and the whole House. This being reported, the Peers resolved to starve them out; an order was made that the doors should

eloquence and in the vigour of his attack¹. "One of his arts," wrote Thomas Herring, Bishop of Bangor, and afterwards Archbishop of Canterbury, to Philip Yorke², the Chancellor's eldest son, "was to turn the eyes of the audience upon the tapestry, and bid them remember the transactions of that immortal navy, and then he ask'd whether there were any history looms at work now. He hoped not—with great emphasis."

The Chancellor, when it came to his turn to speak, made no attempts to outbid the orators in their exalted flights. He discussed in turn the points raised by the opposition in a calm, dispassionate tone, showed clearly that the right was not entirely on one side, but that Great Britain had claims which should be resolutely defended at the proper time; endeavoured to appease the violent passions which had been excited; expressed a strong disapprobation of running into a perilous and unnecessary war at that moment, reminded the House of the dangers to which such a war would expose the country—the probability of the junction of France with Spain, and of the union of the disaffected at home with the nation's enemies abroad—and finally, appealed for time and opportunity for negotiation, and declared his approval of the

not be opened till they had raised their siege. These Amazons now showed themselves qualified for the duty even of foot soldiers; they stood there till five in the afternoon, without either sustenance or evacuation, every now and then playing volleys of thumps, kicks and raps against the door with so much violence that the speakers in the House were scarce heard. When the Lords were not to be conquered by this, the two Duchesses (very well apprised of the use of stratagems in war), commanded a dead silence of half an hour; and the Chancellor, who thought this a certain proof of their absence (the Commons also being very impatient to enter), gave order for the opening of the door, upon which they all rushed in, pushed aside their competitors and placed themselves in the front rows of the gallery. They stayed there till after eleven, when the House rose; and during the debate gave applause and showed marks of dislike, not only by smiles and winks (which have always been allowed in these cases) but by noisy laughs and apparent contempts," (*Letters of Lady Mary Wortley Montagu*, ed. by W. Moy Thomas (1893), ii. 38.) Another account in *Autobiography and Correspondence of Mrs Delany* who was one of the "heroines" (1861, ii. 44).

¹ *Parl. Hist.* x. 1091; Lord Carteret's exaggerated oratory, however, was ridiculed by Sir C. Hanbury Williams in the *Pandemonium* (Walpole's *George II*, i. 168). Cf. also Pitt's speech on the same subject on March 8. "Some years after," wrote Burke in *Letters on a Regicide Peace*, 1, "it was my fortune to converse with many of the principal orators against [Sir R. Walpole] and with those that principally excited that clamour. None of them, no not one, did in the least defend the measure or attempt to justify their conduct, which they as freely condemned, as they would have done in commenting upon any proceeding in history in which they were totally unconcerned. Thus it will be. Those who stir up the people to improper desires, whether of peace or war, will be condemned by themselves. They who weakly yield to them, will be condemned by history."

² H. 257, f. 10.

Convention which, in his opinion, was all that could be expected to be gained at the moment by a preliminary agreement¹.

The address of thanks for the Convention was finally carried by 95 to 74. In the House of Commons, however, the ministers' majority in the division on the same question sank to 28. A further angry discussion followed; and the opposition, headed by Pulteney and Wyndham, ostentatiously, and with great *éclat*, withdrew altogether from Parliament, returning, however, to their places not long afterwards. A few months later, on May 10, 1739, the Chancellor supported again the Government policy on the question of the Danish subsidies, a sum of 250,000 dollars, for which 6000 Danish troops were to be held in readiness².

Previously, on February 12, he had taken part in the proceedings in the Lords against Paul Whitehead, the author of a poem entitled "Manners," in which the Court and members of the government were audaciously satirized. "My Lord Chancellor on this occasion," wrote Bishop Hare of Chichester, "made an excellent speech to explain the true meaning of the liberty of the press, which he said he found was not at all generally understood, that it was not a liberty to defame and libel, but that it was opposed to previous restraints put upon the press, as had been formerly done by licensers and other methods³."

Hitherto Lord Hardwicke had given unfailing support to Sir Robert Walpole in resisting the popular demand for war. But by the summer of this year, 1739, events had developed in a manner very unfavourable to the maintenance of peace. The violence of the opposition had had its effect upon the Spanish as well as on public opinion in England. The domestic disputes in England were considered as a sure sign of weakness and confusion from which they drew encouragement⁴. They became cool on the subject of the Convention, and refused even to discuss the right of search, and delayed the payment of the sum due by the agreement till the English ships should be withdrawn from the Mediterranean.

The Convention, in Lord Hardwicke's view, was nothing unless it led to a further and final treaty, and of this there seemed now no hope whatever. From henceforward, therefore, all his efforts, which had before been zealously directed to stave off the war, were now

¹ H. 257, f. 10; *Parl. Hist.* x. 1147.

² Cox's *Walpole*, i. 608.

³ pp. 320-1; *Hist. MSS. Comm.*, Hare, 243; *Parl. Hist.* x. 1330.

⁴ H. 58, f. 156; *Hist. MSS. Comm.*, Earl of Buckinghamshire, 29-32.

turned towards carrying it on with the greatest energy and efficiency. He was now practically in agreement with the Duke of Newcastle's measures and supported especially the expeditions to the West Indies, the favourite project of the Duke.

Sir Robert Walpole, however, still remained wedded to peace. On the evening of June 1, 1739, the Chancellor found him in despair, largely the result probably of now failing health¹. He endeavoured to arouse him from his inaction, urging that his chief difficulties originated in the widespread opinion of his fanatical attachment to peace, and that a new situation being created by the violation of the Convention by Spain, an opportunity now offered itself for a change of attitude and for a vigorous prosecution of the war without incurring the charge of inconsistency². The Chancellor's representations seem to have made some impression at the time. But Walpole still clung to peace even after hostilities had begun. When his reluctance had been overcome so far as to make reprisals on the enemy, he still desired hostilities to be merely those of defence and to keep the fleet tied to the English shores, a fatal policy which gave all the advantage of attack to the enemy. In May 1740, the Chancellor and the Duke of Newcastle succeeded in carrying against him Sir John Norris's project of manning the ships in the emergency with foot soldiers³. But the Duke of Newcastle's projects and expeditions, and especially those to the West Indies, were continually hampered, thwarted and sometimes countermanded, while later, Sir Robert agreed to, and even encouraged, the fatal Hanoverian neutrality which completely disorganised the war plans of the Cabinet.

As the divisions in the Cabinet grew more acute and became the subject of public comment, it was reported and believed by the meaner class of persons and by those who regarded politics merely as a game of personal intrigue, and deemed such conduct natural and probable, that the Chancellor and the Duke of Newcastle were engaged in a secret and treacherous conspiracy to effect Sir Robert's fall, and to establish in his place a ministry of their own. Robert Trevor, writing to the elder Horace Walpole at the Hague, on August 28, 1739, declared the general opinion in London, "of the Chancellor's and the Duke of Newcastle's having not only a set of ideas, but of friends too, distinct from those of your Excellency and your brother," and thought that he saw treachery in the

¹ Chesterfield's *Letters* (Bradshaw), ii. 752.

² p. 222.

³ Hervey, iii. 373.

"officious detraction of your return and the insinuation of the necessity of an ambassador's presence at the Hague...started and urged from the *other side of Holborn*¹." On February 3, 1738, Lord Bolingbroke wrote to the Tory, Sir William Wyndham: "I love the Chancellor much, and I should therefore be very sorry to see him become the crutch of a battered minister. If he has engaged to a certain degree with the Pelhams, and if the Duke of Newcastle's breach with Walpole is irreconcileable, why should not these circumstances be improved? Why should not you cultivate such a coalition, being in friendship with one lately and having old habitudes with the other²?" Lord Hervey, according to his own account, was especially active in attempting to instil into Sir Robert's mind suspicions of his fellow ministers. "At this time," he writes in April 1737, "Lord Isla and Lord Hervey...were always telling Sir Robert Walpole that Lord Chancellor and the Duke of Newcastle were laying schemes to govern independently of him." "The Duke of Newcastle," Sir Robert Walpole was reported to have said, "was making great court to my Lord Chancellor, and that he proposed by that means to work himself into more power at present, and to be able to form a ministry of his own with my Lord Chancellor, in case any accident happened to Sir Robert." These malicious misrepresentations were constantly repeated, but failed to rouse Sir Robert into taking those extreme measures which his treacherous confidant no doubt desired in his own interests. Was Sir Robert Walpole resolved to submit to the dictation of the usurping Chancellor and Duke and commit to them his understanding and power? "They don't govern me nor they shan't govern me," Walpole is declared to have replied, "but you hate the Duke of Newcastle and therefore never will imagine it possible he can do anything right. I see what he is about as plain as you do, but I am not prejudiced." Moreover, he resolved to go on with the Duke and the Chancellor and not "sour them by letting them know he saw last winter what they were nibbling at" and avoid *éclaircissements*, which only made enmities³.

Lord Hervey, as usual, can conceive no motive for the conduct of men but selfishness and treachery. Vital and fundamental

¹ Coxe's *Walpole*, iii. 542. The Chancellor, who lived at Powis House, in Great Ormond Street, had written to Sir Robert urging for political reasons the importance of Horace Walpole remaining at his post. *Ib.* 534, 546.

² *Ib.* iii. 507.

³ Hervey, iii. 92, 102, 112, 256, 258.

differences, however, between Sir Robert and the Duke of Newcastle, concerning the war and foreign policy, and not any unworthy intrigues, were clearly the real cause and origin of the disputes between them, which indeed soon extended to other matters and developed into a personal quarrel and dislike. A special cause of dissension between the two was the advancement, in April 1740, by Sir Robert, with the King's approval, but against the express wishes of the Duke, of Lord Hervey himself, a declared enemy of the Duke, but at present a favourite of the King and supporter of his Hanoverian measures, to the important office of Lord Privy Seal, a step which naturally aroused the Duke of Newcastle's fears and jealousy¹; and Lord Hervey, having successfully secured his footing in the Cabinet and triumphed over his adversary, no doubt took pleasure in fomenting these dissensions and altercations. He recounts with some satisfaction, and to the Duke's disadvantage, certain scenes which took place in the Council. On May 6, 1740, the subject being a proposed remonstrance to the King on his journey to Hanover, "Just as Sir Robert Walpole was upon his legs to go away," Lord Hervey remarks, at the conclusion of the Cabinet meeting, "the Duke of Newcastle said, 'If you please, I would speak one word to you before you go,' to which Sir Robert Walpole replied, 'I do not please, my Lord; but if you will, you must.' 'Sir, I shall not trouble you long.' 'Well, my Lord, that's something, but I had rather not be troubled at all. Won't it keep cold till to-morrow?' 'Perhaps not, Sir.' 'Well, come then, let's have it'; upon which they retired to a corner of the room where his Grace whispered very softly, and Sir Robert Walpole answered nothing but aloud, and said nothing aloud, but every now and then 'Pooh!' 'Pshaw! O Lord! O Lord! Pray be quiet. My God, can't you see it is over?²?'"

Such stories may possibly be the inventions or exaggerations of malice, but we know from the correspondence between the Chancellor and the Duke to what a dangerous height these violent jealousies and personal altercations in the ministerial councils occasionally rose³.

At this crisis of affairs, both within and without, the Chancellor proved a veritable tower of strength. Making the best of a bad

¹ p. 229.

² Hervey, iii. 370. See also 362, when the Duke's importance and whispers to the Chancellor arouse the author's indignation.

³ Below, pp. 238 sqq.; and Coxe's *Walpole*, i. 622.

bargain, which is often the supreme achievement of true statesmanship, he urged with firmness, but at the same time with admirable tact and patience upon Sir Robert, the necessity of adopting active measures, and in particular the West Indian expeditions, persevering in spite of the minister's frequent relapses into indecision and vacillation. On the other hand, far from encouraging, as we have seen him represented, from interested motives, a factious opposition to him, of which he was incapable, he maintained to the last friendly and confidential relations with Sir Robert¹, endeavoured to moderate the demands of the Duke of Newcastle, and advised the postponement of the discussion of all points of dispute which need not, or could not, in the King's absence, be immediately decided. He attended as often as his laborious judicial duties would allow, even when purely military problems were debated, at the meetings of the Regency Board and the Cabinet, where his calm influence was needed to restrain the angry feelings and personal altercations which frequently threatened the disruption of the ministry, to keep the balance between the contending parties and to guide the helm of state at this difficult juncture of affairs².

In the House of Lords, a strongly worded resolution, equivalent to a declaration of war, was moved by Lord Carteret on June 4, 1739. The Chancellor spoke against it, no longer opposing or doubting the necessity of war, but because such a declaration was calculated, in the unprepared state of the forces, to place the country at a disadvantage. At the same time he affirmed himself to be by no means in favour of postponing the war, but of immediate action³, which caused Sir Robert, who was standing behind the throne listening to the debate, to call out sarcastically, "Bravo, Colonel Yorke, Bravo!" The motion was defeated by 63 against 44. In August of this year, the Chancellor, accompanied by three of his sons, paid a visit of inspection, which caused some talk in the country, to the fleet at Portsmouth, where he was received with great enthusiasm by the admirals and seamen, and drank confusion

¹ There are no letters of any interest from Walpole in the Collection. The second Lord Hardwicke in a note appended to one (H. 238, f. 137) writes, "It is singular enough that this, and another letter of no consequence and shorter, are the only ones from this great minister which I could find." But Walpole was very sparing in his correspondence, and his letters are rare.

² pp. 218, 221 sqq., 229-241, 248-251.

³ *Parl. Hist.* x. 1409-21; *Hist. MSS. Comm.*, Hare, 247, "The Chancellor spoke extremely well."

⁴ *Walpoliana* (by the second Earl of Hardwicke), 14.

to the Spanish¹. War was declared on October 19th amidst general rejoicings, and the new session opened on November 15th. The Chancellor's share in the debate was restricted entirely to the object of moderating "the heats, divisions and animosities," which were the subject of allusion in the King's speech. He invited the opposition and the country in general to abandon factious disputes and, now that the war had actually begun, to give a general support to the government².

This appeal, though animated with conspicuous good sense and wisdom and with the good humour characteristic of the speaker, met with no response. The opposition by no means desired a successful prosecution of the war by the government; they wished for its failure, whereby embarrassments would follow and the downfall of the prime minister might be secured.

Their object was pursued with unrelenting persistence and unscrupulousness. On February 28, 1740, the opposition attempted, though without success, to create a dispute between the two Houses on a point of privilege. A message had been sent to the Commons alone from the King asking for a vote of credit, and it was argued that this was an infringement of the privileges of the Lords. The Chancellor defended what had been done, though declaring at the same time that the Lords had never yielded to the Commons the sole and exclusive grant of supplies or the right to alter and amend money bills³. On a subsequent occasion, during the debate on the Turnpike Bill, March 12, 1741, he vindicated the privileges of the Lords more directly, re-asserted their right to amend money bills, and expressed his hope that they would never abandon it⁴.

Another attack was made on April 15, 1740, when the government was censured for not having at first sent land forces with Admiral Vernon⁵ to America. This officer succeeded in taking Portobello in November 1739, a capture soon to be relinquished, but failed at Cartagena and at Santiago in Cuba. Being a member of the opposition and M.P. for Penryn, both his petty success and his more serious failures were made occasions for factious abuse of the government.

The objects aimed at by the expeditions indeed presented

¹ p. 225; II. 257, ff. 20, 22; II. 238, f. 180.

² *Parl. Hist.* xi. 60.

³ *Ib.* 452, 461, 480.

⁴ *Ib.* xii. 144.

⁵ Edward Vernon (1684-1757), son of James Vernon, Secretary of State; served under Sir Clowdisley Shovell in the Mediterranean, and afterwards in the Baltic.

considerable difficulties and the conduct of the commanders was not calculated to overcome them.

General Wentworth, who led the land forces after the death of Lord Cathcart, and who joined Vernon in January 1741 with 9000 men and with a large naval reinforcement under Sir Chaloner Ogle of 25 ships of the line, was hopelessly deficient in ability and experience. According to the naval view, the General and his troops were only a "clog" upon the movements of the ships and sailors, and destroyed the chances of success; while according to the account of the Chaplain-General of the land forces, the Admiral's behaviour was that of a madman¹. Moreover, jealousies and quarrels soon made common action impossible.

In the scandalous incidents which took place, contemporaries thought that they saw a cause deeper and more malignant than ordinary military incapacity, and believed that the national interests had been deliberately and treacherously sacrificed by the Admiral to the exigencies of a disloyal faction at home. To these suspicions colour was given by the publication soon afterwards of the intimate correspondence between Vernon and Pulteney in which the latter, using the same fatal reasoning which later seduced and destroyed the unhappy Byng, does not scruple to urge the Admiral to avoid "an over eager zeal for your country's service," and being "drawn into risking any enterprise that may be too hazardous"; since all failure to make further progress could only be imputed to the ministers².

These misgivings, moreover, were strengthened further by the conduct of the Admiral himself who, on his return, showed himself a mere tool in the hands of the opposition, joined openly the ranks of faction and having written several anonymous pamphlets against the administration and published his official correspondence, was finally dismissed from his rank in the navy in 1746. "What ample revenge," exclaims Horace Walpole with some justification on this incident, "every year gives my father against his Patriot enemies! Had he never deserved well himself, posterity must still have the greatest opinion of him, when they see on what rascal foundations were built all the pretences to virtue which were set up in opposition to him³!"

In the debate now raised with these factious objects, the Chancellor, in support of the administration, declared that those

¹ pp. 254-8, 267, 276; *Dict. Nat. Biog.*, *Edward Vernon*, by Professor Laughton; Coxe's *Walpole*, i. 635; T. Wright, *England under the House of Hanover*, i. 171.

² *Original letters to an Honest Sailor*, 9; cf. chap. xxiv.

³ *Letters*, ii. 301.

pilots were the fittest to govern the ship who had endeavoured to avoid the storm. Everything that was possible had been done. By the nature of our constitution we must be slower than other nations in some things. Noble Lords must be content, otherwise such continued fault-finding would make the fate of those who served the Crown intolerable. The motion was finally lost by 62 votes to 40¹.

In the next session, in November, an attack was made under the form of the address in answer to the King's speech and again defeated, the Chancellor declaring that he "never rose up with greater consternation than at present, to think what construction will be made of this deliberation²." A series of debates followed, all on the same lines. Lord Bathurst moved on December 1st for the production of Admiral Vernon's instructions, which, as well as the demand for his correspondence, was refused by the Chancellor and the ministers as prejudicial to the national interests³. He consented, however, to the production of the correspondence concerning supplies, an unwise concession, as it proved, since the Admiral's letters, whose *rôle* it was to declaim against Walpole on all occasions, contained many bitter complaints on this subject which formed useful material for the attacks of the opposition. Then followed the demand for the instructions of Admiral Haddock, who had done some good service in the Mediterranean by securing Gibraltar and Port Mahon from attack, by protecting the trade and blockading Cadiz, but who was accused of inaction.

The Chancellor appealed to the opposition to exercise some moderation and to cease from thus factiously embarrassing the government, and renewed again his warnings of the disasters which must result from such internal dissensions in time of war. It was his conviction, in spite of the Duke of Argyll—whose character and military experience added weight to his adverse criticism, and which he therefore regretted the more—that everything possible had been done in the prosecution of the war. No case against the government had been made out. There was nothing to go upon but vague clamours and murmurs, such as attend the prosecution of all wars, supported by scurrilous libels, not only aimed at the ministers, but at the King himself, which the people, always disposed

¹ *Parl. Hist.* xi. 586.

² *Ib.* 616, 629, 675; an account of this debate in a letter of P. Yorke, the Chancellor's eldest son, to the *Club* at Cambridge, II. 285, f. 5.

³ *Parl. Deb.* xi. 700, 756, 760; II. 285, f. 6.

to complain of their rulers, swallowed greedily. Let noble Lords then, if they were so bent upon inquiries, inquire for the authors and publishers of these libels and put a stop to this increasing evil. He warned the House that an examination into the conduct of the war, *flagrante bello*, would be attended with great danger, by making public the plans of the government, especially when so many strangers were admitted to their Lordships' debates. "This, my Lords, is really inconsistent with the dignity of this assembly; you depart from your ancient dignity when you admit of such an audience; and the misfortune which necessarily attends it is, that what is said or done in this House is too often made a handle of for inflaming the minds of the people and for raising these clamours and discontents without doors, which are afterwards made use of as arguments for influencing our proceedings within. But such arguments I shall never allow to have any weight with me, and as they seem to be the chief arguments in favour of this motion, I must therefore declare myself against it¹." The motion was rejected by 58 votes against 41².

Another debate followed, on December 9th, on the state of the army, introduced by the Duke of Argyll, who derived great prestige from having served as an officer in King William's campaigns. He criticised especially the excessive number of officers and the multiplication of regiments, denounced the incapacity of the war office, and argued that the army with its discipline, training and disposal should be subordinate to a military and not to the civil power. The Chancellor in reply began by modestly disclaiming any right to speak with authority on military affairs or to balance his own opinions against the noble Duke's knowledge and experience. "I would not expose myself to the censure of having harangued upon war in the presence of Hannibal." Some objections, however, he would venture to make. He trusted that he should never see in this country an army placed only under a military direction and free from the control of the civil power. Such a force would quickly become a body distinct from the rest of the community and independent of it, a government regulated by its own laws, outside the general constitution of the state and which would soon find itself inclined to use its military powers either to extend its privileges or to revenge its slights. "How

¹ He voted against the attempt to admit strangers in 1742, as proceeding from a "spirit of faction and low popularity." N. 195, f. 353; and see chap. xxviii. H. to N. June 7, 1758.

² *Parl. Hist.* xi. 773, 813.

soon, my Lords, might such outrages be expected from an army formed after the model of the noble Duke, released from the common obligations of society, disunited from the bulk of the nation, directed solely by their own officers?" These were the very dangers of a standing army from which it was the duty of the government to defend the nation. As for the military experts, though he could by no means venture to set up an opinion against theirs, yet it was difficult to follow their advice till they were a little agreed amongst themselves. He excluded himself, but hoped that others would always be found in civil offices of sufficient skill to give directions on military matters. He concluded his speech with some sound Conservative maxims and by warning the Lords not to be beguiled into doctrinaire politics. Nothing was more dangerous than unnecessary innovations, for the parts of the constitution like a complicated machine were fitted to each other, and when one was changed, in the pursuit of an impossible perfection, another must be, till the original constitution was entirely destroyed¹.

Next year, on January 28, 1741, another motion to produce Admiral Vernon's representations for more ships was successfully resisted, and on February 10th a scene of some disorder took place in the Lords. The ostensible motive of the disturbers was the competition for the best seats near the fire, but the real design was, in all probability, to obstruct government business. The Woolsack, we are glad to find, was considered the warmest and most comfortable place in the House, and Lords occasionally, attracted by its advantages, ventured to seat themselves upon it. These and similar irregularities now having attention drawn to them, the Chancellor directed the Lords to take their proper places. The Duke of Bedford declared that "it was nonsense that Lords should take their places without knowing them." The Chancellor then directed the Act for placing the Lords to be read. Lord Sandwich: "I know not where to sit." Duke of Bedford: "The Act of Parliament will not let me." At length order was restored and the debate of the day proceeded with².

But these several incidents and attacks upon the administration, the course of which we have now followed, were only preliminary to the grand and final assault of February 13, 1741. In the Lords, Lord Carteret, in moving a resolution for an address to the King to remove Walpole "from his presence and counsels for ever," delivered a most able and telling speech, reviewing exhaustively the foreign

¹ *Parl. Hist.* xi. 918, 1016.

² *Ib.* xi. 1040.

and domestic transactions of the government and basing upon them a severe condemnation of the minister. He especially criticised the Treaty of Hanover and the subsequent alliances contracted, which he represented as a mere subordination of the interests of England to those of France, and condemned the financial policy of the minister and his methods of government and patronage. But he spoke with moderation, concluded with repudiating any desire to injure, and moved not for the minister's impeachment but only for his removal.

The Duke of Argyll fastened upon the bribery, the private pensions, the corrupting political system practised by Walpole, the waste of public money, the mismanagement of the war, the bad appointments. He accused him of being *sole minister*, of having gathered into his own hands the whole power of the State. Every man, he declared, who wanted anything, must go twice a week to his house. He concluded with a quotation from the scriptures: "Take away the wicked from before the King and his throne shall be established in righteousness."

The Chancellor spoke next. He declared that not a single reason had been advanced for the motion. No facts whatever had been stated and no proofs—he did not mean legal proofs, but not even parliamentary evidence. "The way here taken is to indulge every inclination, every suspicion. This question concerns your Lordships more than this gentleman. Consider, my Lords, how far any inclination to wound him, may wound yourselves and your posterity." Strong differences of opinion in politics must be expected and welcomed under a free constitution, but those which arose from regard to the public good must be distinguished from those which proceeded from private animosities. Ministers were not more infallible than other men. They were equally liable to the same passions and affections, and their failures would be forgiven, except by their personal enemies and those immediately ambitious of succeeding to their places. Besides, they never wanted enemies from among the people, always wont to clamour and complain against their governors, and as to patronage, which had been declared the chief source of a minister's power, it was in truth the principal cause of enmity against him; for out of a dozen candidates for a place, while one was satisfied, eleven disappointed persons became diligent propagators of every popular cry against him. The relations between ministers and the people in time of war might be well compared to those between

attorneys and their clients in a lawsuit. As long as the suit went on and the client saw no bills, he was perfectly satisfied; but the least delay, from whatever cause, occasioned complaints against the solicitor's conduct, and even when the matter was brought to a successful issue, the bill was seldom paid without murmurs. The military expenses now incurred and the heavy taxation of the people were the inevitable consequence of the political situation abroad. The Treaty of Hanover was necessary to ward off the continued attacks upon this country of Spain and Austria¹, and through the treaty the latter had been obliged to give up the Ostend Company as well as all its hostile schemes against Holland, France and England. Afterwards, it was the proper policy of this country to seek a reconciliation with Spain, which she achieved in the Treaty of Seville. These treaties had been approved in the strongest manner by Parliament, and the only fault of ministers was to have preserved the nation in peace and tranquillity, at the same time that they prevented any material alteration in the political system of Europe. With regard to the charge that Sir Robert had aimed at being "sole minister," he pointed out that there had always been some person in the King's particular confidence, and such a status involved no violation of the constitution. He did not believe that the minister, as the noble Duke had asserted, was generally suspected of designs against the liberties of the people; but in any case such a suspicion could not form a proper foundation for a resolution in that House which made a man appear on record as a weak or wicked minister. No proof was offered but merely notoriety and common fame. Let their Lordships not follow bad precedents and brand and condemn a man to all posterity without a hearing or without evidence. It had been urged that the resolution involved no punishment, but was merely advice to the Crown. But the House of Lords was a fixed, stable and permanent body, more regular and orderly in its proceedings than the House of Commons, not so liable to fluctuation or to irregular impressions from popular prejudices, and which observed the rules of law and equity in its judgments, proceeding deliberately upon clear evidence. Moreover, their Lordships' House was one of judicature, not of accusation or presentment. When they deviated therefrom, they departed from

¹ He, however, in later years declared the treaty to have been a grave error, as contributing to the excessive power of France. See chap. xix. N. to H. Nov. 26, 1748; H. to P. Y. Oct. 12, 1751.

their dignity, and might give an extra-judicial opinion in a case that perhaps would come before them for judgment. This proceeding was of the nature of a criminal appeal to their Lordships' House which entailed great mischiefs. If the necessity of proof should be taken away, resentment, ambition, avarice, malice, the lowest passions of the worst men would be evidence. Let every Lord lay his hand on his heart and determine whether he should think himself justly dealt with to be so judged. Further, this was an attempt to condemn the whole series of measures in the King's reign and part of his father's; to condemn several of the King's speeches and the proceedings of three Parliaments; to censure many persons who had more hand in many of the transactions than the gentleman accused, and that upon a sally, rather than the deliberation of one day¹.

"I heard that debate in the House of Lords," says the second Lord Hardwicke, "the finest I was ever present at there, as so many first rate speakers took part in it, each of whom had a peculiar manner. This will be readily admitted when I repeat the names of Lord Carteret, Duke of Argyll, Lord Hervey, Lord Lonsdale, not to mention the noble Lord who presided on the woolsack. Lord Chesterfield was then too much indisposed to speak, but he voted in the minority. Let me add that the late Duke of Newcastle (though oratory was not his talent) performed remarkably well that day in reply to Lord Carteret²."

The discussion lasted for 11 hours, and the motion was finally rejected by the large majority of 108 to 59, 136 peers being present and voting.

The same motion in the Commons, when Sir Robert somewhat disconcerted his adversaries by a positive refusal to withdraw, and made a courageous defence of himself, was defeated triumphantly by 290 votes to 106, the majority being largely increased by the unexpected withdrawal from the opposition of the Jacobites and most of the Tories, occasioned probably by the delusive communications which were carried on by Walpole with the Pretender's agents about this time³.

Great developments now took place in affairs abroad. The signal for a general European war had been given by the sudden

¹ *Parl. Hist.* xi. 1056, 1117, 1194. Notes of his speech, H. 528, f. 80, and further particulars, H. 285, f. 7. See also H.'s speech in the debate April 9, 1741, in support of supply for the war, *Parl. Hist.* xii. 152.

² p. 252; *Walpoliana*, 15; *Mrs Montagu's Corr.*, by E. J. Climenson, i. 104.

³ See below, p. 204.

and treacherous invasion of the dominions of Maria Theresa, the Queen of Hungary, on December 23, 1740, by Frederick of Prussia. He was joined in his depredations by France, Spain, and the rulers of the smaller states, who all hoped for a share in the spoil. England alone, among all the powers who had signed the Pragmatic Sanction, which guaranteed the dominions of the Emperor Charles VI to his daughter, came to her support and contributed a grant of £300,000. The attempt of Walpole to make peace, by persuading the Queen of Hungary to cede the coveted territory in Silesia to Frederick, was unsuccessful; and the projected alliance in 1740 with Frederick of Prussia, which aimed at his detachment from the French by the offer of concessions in Julich and Berg, proved also abortive, one principal cause of the failure being the attitude of King George himself, who insisted on obtaining Hanoverian concessions equal to those gained by Frederick. The great object of the war, the arrest of the encroaching power of France, was completely neglected, and, as the Duke of Newcastle declared, "This country is to go into a war with France to procure great acquisitions for the King of Prussia and as great ones for the Elector of Hanover; and, what is still worse, the more extravagant the King of Prussia's demands are, the better they will be liked, since the greater advantages will be to be obtained in return¹."

These negotiations failing hopelessly, England became involved in the continental war, and in all the heavy responsibilities which Walpole had always dreaded. His supremacy and power, invincible in time of peace, became now exposed to various perils from the fortune of war, which declared itself definitely against England. The disasters at Cartagena and Cuba became known, and also Admiral Haddock's failure to intercept the Spanish fleet sailing to attack the Austrians in Italy. No success attended any of the naval movements. France openly joined Spain in war against this country. The merchants suffered from severe losses. The public exasperation rose to fever height, while the various military failures contributed to the ill-humour and dissensions within the Cabinet.

But the death-blow to the ministry came from another quarter. The King had gone abroad to Hanover in May 1741, ostensibly to organise assistance for Maria Theresa; but on the approach of the French army, he hastily concluded, with the assistance of

¹ pp. 243 sqq.; also N. 9, f. 339.

Lord Harrington, who had accompanied him, a convention of neutrality for Hanover for one year. The gravity of this step can be realised when it is remembered that all the sacrifices made by England for Hanover could only be justified, and had only been recommended to Parliament, on the ground that the electorate would join forces with this country in resisting French aggression and assisting the Queen of Hungary, and that situated, as it was, between Prussia and France, it would form a valuable *point d'appui* for military operations. The sacrifices had been made, the opportunity had now arisen, but the King had suddenly betrayed his ministers and the country. The whole scheme of war and foreign policy, elaborated by the Duke of Newcastle and the Cabinet, was overthrown. Former treaties were repudiated. The French and Bavarians in alliance with Prussia were enabled to pour into Bohemia, in August 1741, and capture Prague, and the Elector of Bavaria in 1742 was crowned Emperor. The worst insinuations of the opposition were now completely justified. Most disastrous of all, Sir Robert Walpole, still clinging to his fatal peace policy, now supported the King's action, though he had not himself originated it¹, and thus immeasurably widened the breach between himself and the Duke of Newcastle's party. For these there was nothing left now but to endeavour to emphasise the distinction between the acts of the King of England and those of the Elector of Hanover, to repudiate responsibility for a policy which they had no share in determining, to urge upon the King an immediate return to England, and to await the ruin of all their schemes abroad, and the inevitable fall of the administration².

This could no longer be retarded. Walpole still clung to power. He turned, as a drowning man snatches at a straw, to negotiations which could not serve him. He even made overtures to the Prince of Wales, offering him his extra £50,000 a year, but the Prince "rejected the advance with dislike"³.

¹ p. 259; *Walpoliana*, 15; Coxe's *Walpole*, i. 685.

² p. 268; one of the worst consequences was the mistrust excited in Holland.

³ *Walpoliana*, 15; and see above, p. 177; Coxe's *Walpole*, i. 692; iii. 585. The story of his application to the Pretender is based only on a letter of James dated July 10, 1739, addressed to the historian Carte and delivered to Walpole himself by the latter in September, in reply to another from an unknown person expressing goodwill for the Jacobite cause; printed in Stanhope, iii. app. xlvi.; evidence of other communications in 1734 is to be found in *Hist. MSS. Comm.*, J. Eliot Hodgkin, 235. But as the second Lord Hardwicke states in his *Walpoliana*, "Sir Robert Walpole, in the course of his ministry, received more than one letter from that person [the Pretender]; he

In the new Parliament, which assembled in December 1741, he only obtained the slender majority of 14. In the House of Lords, the Chancellor continued to give his support, on January 28, 1742, especially, defending the government's administration of the island of Minorca and particularly approving of the religious tolerance and of the maintenance of the Roman Catholic religion in the island, to which objection was made by the opposition¹. In the House of Commons, however, Walpole, after gaining one more triumph, on January 18, over his adversaries, by a majority of 3 and delivering a speech, acknowledged even by his adversaries as one of his greatest achievements in debate, was defeated a few days later on an election petition. He was still eager to continue the fray, but at last, urged by all, even by his colleagues and supporters, he made up his mind to resign. He took an affecting farewell of the King and retired, after his long tenure of office of 20 years, to the House of Lords, as Earl of Orford. He was "the best man, from the goodness of his heart,... to live with or live under, of any great man I ever knew," said Speaker Onslow; "the greatest House of Commons minister we ever had²," wrote the second Lord Hardwicke, who was well acquainted with him, and was not blind to his failings or to his errors; and time has not obscured but enlarged his fame as a statesman. On February 3, the Chancellor signified His Majesty's pleasure that Parliament should adjourn, and thus closed one of the most dramatic and striking chapters in the political history of England.

Soon after his accession to the Chancellorship, Lord Hardwicke had moved from his London house in Lincoln's Inn Fields to Powis House, an imposing building, situated on the site of the present Powis Place, Great Ormond Street, and formerly the

carried them immediately to the King and had the precaution to have the King's name G. R. subscribed to each letter, as a proof that he had communicated them....Sir Robert was from his first appearance in public life uniformly and steadily attached to the protestant succession and never was suspected of the least deviation from that principle. The same cannot be said of others, and it was perhaps his particular merit." This statement is further supported by Walpole (*Letters*, i. 247). The communications were no doubt encouraged to disarm the Jacobites and to learn their projects, and were possibly the cause of the defection of the Jacobites from the opposition in 1741. See p. 529 n.; *Dict. Nat. Biog.*, s. *Walpole*; and W. King's *Anecdotes* (1819), 36 sqq.

¹ *Parl. Hist.* xii. 382.

² *Walpoliana*, 17; *Hist. MSS. Comm.*, Earl of Onslow, 473; Cox's *Walpole*, i. 693; Sir Robert Peel's character of Walpole in Lord Stanhope's *Miscellanies* (1863), i. 83.

dwelling of the French Ambassador¹, which remained his residence during the whole of his long tenure of office. Shortly after his establishment here, he acquired in 1740 the Wimpole property in Cambridgeshire from the second Earl of Oxford, son of the celebrated minister, and collector of the Harleian Manuscripts², for the sum apparently of £86,740, an amount increased by the Chancellor's subsequent expenditure on improvements by £16,000³, and by later purchases of adjoining lands. The house was said to extend over two acres and to have a length of 420 feet. The centre block had been built by Sir Thomas Chicheley in the 16th century; additions were made by Lord Oxford, in particular the wing consisting of the large library constructed for the housing of the valuable Harleian Manuscripts; and Lord Hardwicke now carried out various improvements in the façade and interior, including the building of a large bow window in the principal drawing room, and the addition of a wing for new stables. A Gothic ruin, according to the fashion of the time, was erected in the park⁴. He also pulled down the greater portion of the old 14th century, Gothic parish church, leaving the Chicheley chapel with its tombs and beautiful glass intact, and preparing for himself and his family a burial place on its east side. He raised on the site of the former building in 1748-9, at the cost of about £1,000, a new church of classical style, which by no means compensates for the loss of the earlier structure, but which remains an interesting monument of the Chancellor and of the taste of his century⁵. The large park, with its long green stretches and fine timber, presented many attractions; while its chief feature was the famous double avenue of great elms, three miles in length, which extended, as the principal approach, in a direct line from the Royston road to the house. Wimpole was advantageously situated, being near enough to London to enable the Chancellor to often escape thither from his arduous official duties,

¹ Wheatley's *London*, iii. 119; Noorthouck's *Hist. of London*, bk. v. 746; bk. i. 304. The building was pulled down between 1773 and 1777, Nos. 50 (in which Lord Macaulay lived), 51 and 52 being built on part of the site.

² p. 244.

³ H. 880, ff. 91, 170, 180-2; Add. Charters (Brit. Mus.), 44,742. In 1738 we find him lending £16,000 at $3\frac{1}{2}$ per cent. to "Mr Erle of Heydon," *Hist. MSS. Comm. Rep.* xi. (4) 356.

⁴ L. Dickens and M. Stanton, *An 18th Century Corr.* 193, 271-2. The present large block of stables is, of course, of much later date.

⁵ H. 28, f. 19; H. 331, ff. 14-16; Add. 5848, f. 428, and 5823, f. 132, where there is a drawing of the old church.

and yet far enough to occasionally excuse his attendance at the ministerial councils. It was also only nine miles from Cambridge, where his sons were educated, in which university he now began to take great interest, and of which he was elected High Steward on July 5, 1749, an office which was held by his descendants in succeeding generations for many years afterwards. In 1753, he received the honorary degree of LL.D. from the university¹.

The purchase of this large landed estate brought with it great local and political influence, and the Chancellor did not break into the sacred ring of Whig landowners and political magnates without arousing some jealousies. Wimpole soon became the centre of political interest in the county, which was the only one in the election of 1741 to return all Whig members. The Chancellor was not long after offered the Lord Lieutenancy, but delegated the office to his eldest son, the latter also sitting in Parliament, as member for the county, from 1747 till he succeeded his father in the peerage. Lord Hardwicke now spent many happy years at Wimpole, enjoying the country life, the opportunities for riding and exercise, the relaxation from the incessant labours and anxieties which attended him in London, and always returning from business with delight to his home life and the society of his children who, now growing up to maturity, gave signs of fulfilling their parents' most sanguine expectations.

All the Chancellor's sons, with the exception of Joseph, who entered the army at the early age of 16, in April 1741, after leaving Hackney School entered Bene't College, now Corpus Christi, as fellow commoners, where they were known as "the studious Yorkes"², and showed a remarkable aptitude for letters. This was especially the case with the two elder brothers, Philip and Charles³. When still at college they had planned a work, entitled *Athenian Letters or the Epistolary Correspondence of an Agent of the King of Prussia residing at Athens during the Peloponnesian War*, which, begun in 1739, was published in 1741 and 1743 in four volumes⁴. The greater part was their composition, other contributors being Thomas Birch (who signs his contributions *B*), Henry Coventry (*C*), John Green, afterwards Bishop of Lincoln (*G*), Samuel Salter, their tutor, afterwards

¹ His speech to the Vice-Chancellor, II. 244, f. 74.

² *C. C. C.*, by H. P. Stokes, 139, 149.

³ Philip joined the college in 1737 and left in 1740; LL.D. 1749. Charles went into residence June 13, 1739; M.A. 1749.

⁴ Note by C. Y. in the copy in the library at Wimpole.

Master of the Charterhouse (*S*), Catherine Talbot, the “celebrated Miss Talbot,” daughter of William Talbot, Bishop of Durham, brother of the late Lord Chancellor, an accomplished lady and intimate friend of the family (*T*), Daniel Wray (*W*), G. H. Rooke, afterwards Master of Christ’s College (*R*), John Heaton of Bene’t College (*H*), John Lawry, a cousin, afterwards Prebendary of Rochester (*L*), and W. Heberden (*E*)¹. Though not a book of much interest for modern readers, at the time of its appearance, when Greek authors were so little familiar to the general reading public and when scarcely any good translations from their works existed, it was welcomed as a vivid and striking reproduction of the epoch and its spirit, while it appealed to those versed in classical literature and history by the intimate knowledge of those subjects which it exhibited, and it is still described by Sir Henry Ellis, in 1840, as “the best commentary which has yet been written on Thucydides².” The secret of its authorship was kept with great strictness³. It had a considerable vogue, both in England and abroad. At first limited to the small number of ten copies, it was republished later, in 1781, in one volume, when 100 copies were printed, with the omission of some letters contained in the first edition; in 1798, in two volumes, quarto, in consequence of a pirated Dublin edition of 1792; and in 1810. In 1800 an edition was published at Basle; and it was translated twice into French in 1803.

Charles, who had a large share in its composition, early showed signs of great intellectual power. He was regarded, even while still at college, as one of the most promising and interesting men of the rising generation⁴; and while scarcely more than a boy, had attained ripe scholarship and was on intimate terms with some of the leading spirits of the time, corresponding with Warburton, Birch and Montesquieu. He was admitted to the Middle Temple, December 1, 1735, and migrated to Lincoln’s Inn on October 23, 1742⁵. He appeared destined by every circumstance of his birth, character and abilities to succeed his father as Head of the Law; and beloved and admired by a large circle of friends, seemed to be standing on the threshold of a brilliant and happy career⁶.

¹ *Biog. Anecdotes of D. Wray*, by G. Hardinge (1815), 33; J. Nichols, *Illustrations*, i. 33. ² Add. 36,653 (8), f. 1. ³ H. 48, f. 54.

⁴ Letter from F. Aylmer at Cambridge, July 23, 1740: “If he continues in the same prudent conduct there is no science or profession of life...in which he will not make a very considerable, or rather a very eminent figure.” H. 238, f. 265, printed in Harris, i. 478.

⁵ Lincoln’s Inn Black Books.

⁶ See further, chap. xxi.

Anthony Grey, 11th Earl of Kent = Mary, only child of John, Baron Lucas. She was created Baroness Lucas of Crudwell

Henry, Duke of Kent, K.G., created Marquis Grey, May 19th, = (1) Jemima, da. of Thomas, 2nd Baron Crewe of Steyne
 1740, with special remainder to his grand-daughter, Jemima Campbell; † June 5, 1740, s.p.m.s., when all his titles, except the new Marquiseate and the barony of Lucas of Crudwell became extinct

Lady Amabel Grey = John Campbell, Lord Glenorchy;
 + 1727 | 2 sons
 succeeded his father, 1722, as
 3rd Earl of Breadalbane
 + 1772, s.p.m.s.

Jemima, Marchioness Grey and Baroness = Hon. Philip Yorke, afterwards
 Lucas of Crudwell, † 1797, when the Marquise became extinct

Amabel, b. 1751, Baroness Lucas of Crudwell, 1797; created Countess de Grey of Wrest, 1816, with special remainder, † s.p. 1833 = A. Hume Campbell, Viscount Polwarth, son of 3rd Earl of Marchmont, + s.p. 1781

Mary Jemima, = Thomas Robinson, b. 1756, + 1830

Thomas, 2nd Earl de Grey and 4th Baron Lucas, on the death of his aunt

Frederick, 1st Earl of Ripon

Exceptional good fortune also awaited his elder brother, Philip. In 1738, he succeeded to the lucrative sinecure of Teller of the Exchequer, obtained by Lord Hardwicke on taking the Great Seal the year before. In 1740, at the age of 20, he left Cambridge to marry the Hon. Jemima Campbell, daughter of John Campbell¹, Lord Glenorchy, afterwards third Earl of Breadalbane², and granddaughter and heiress, through her mother, of Henry Grey, last Duke of Kent.

The marriage of the youthful bride and bridegroom was hurried on by the old Duke, who felt his death approaching and desired to see his granddaughter settled before his departure³. The ceremony took place at his house in Brompton, on May 22, 1740⁴, and a fortnight afterwards the Duke expired. By his death Mrs Philip Yorke became Marchioness Grey and Baroness Lucas of Crudwell in her own right, the Duke having been created Marquis Grey, with special remainder, a few days before the marriage, with the object of this title descending to his granddaughter. The young couple also inherited the Duke's magnificent house and property of Wrest in Bedfordshire, and thus drew into the family another local centre of political interest⁵.

"What luck the Chancellor has!" wrote Horace Walpole to Henry Conway; "first, indeed, to be in himself so great a man; but then in accidents; he is made Chief Justice and Peer when Talbot is made Chancellor and Peer. Talbot dies in a twelve-month⁶, and leaves him the Seals at an age when others are scarce made Solicitors; then marries his son into one of the first families of Britain, obtains a patent for a Marquise and eight thousand pounds a year [*i.e.* for his daughter-in-law] after the Duke of Kent's death; the Duke dies in a fortnight and leaves

¹ See his polite letter to her on the engagement, carefully corrected by the Chancellor, II. 257, ff. 43, 47.

² Of the second Lord Breadalbane, "Old Rag," grandfather to Mrs Philip Yorke, Sir Walter Scott gives an extraordinary description in Sinclair's *Mem. of the Insurrection in Scotland* (Abbotsford Club, 1858), 185 n. He was much dissatisfied at the death of his grandson in infancy, and at the property of the Duke of Kent passing to the Chancellor's family, and "damned Glenorchy for his stupidity. For, said he, had he sent the boy to me, he should never have died, so long as there was a lad-bairn in Breadalbane." Other stories, including his last words on his deathbed, in his 90th year at Holyrood, in 1750, Sir Walter Scott intimates, "paper will not endure" and "pen must not transcribe." For the young Pretender's visit to him at Holyrood in 1745, see below, p. 470. He was the son of the still more eccentric first Earl, implicated in the massacre of Glencoe, and described by Sinclair on the same page.

³ p. 236.

⁴ II. 238, f. 235; II. 257, ff. 52, 62.

⁵ For the settlement, see Collins, *Peerage*, (1779), ii. 521; II. 880, ff. 95, 97, 146, 148.

⁶ An error.

them all! People talk of Fortune's wheel that is always rolling; troth my Lord Hardwicke has overtaken her wheel and rolled along with it!"

But the marriage did not only bring worldly advantages. "Sisamnes gave infinitely more than these," Orsames is made to say in the *Athenian Letters*, clxvi., "when with his dying hand he gave me his daughter. Her figure, her air, her voice, all express that graceful ease and engaging softness which run through her whole character. But the humblest sense of her own excellencies, and a shyness of applause, however deserved, permit her friends alone to know, that to the delicate beauties of a female mind she adds the stronger features of a manly understanding, an apprehension instantly to seize, and a taste exactly to determine, the merit of whatever comes before her; a firmness, yet only tried in the little occurrences of life, but which may be equally depended upon in the most important cases; a popular benevolence, which makes all who approach her easy; and a nicety in her friendships, which keeps off the forward and undeserving. Fondly to lean on such a bosom, to have such a heart entirely mine to retire to, can I form a wish beyond it? Here, perplexed with Court factions, and fatigued with public business, I may deposit all my cares; think them over again, assisted by the truest good sense, or lose all thought of them in the tenderest endearments¹...."

In 1741, almost immediately after his marriage, Philip Yorke entered Parliament as member for Reigate, where his mother's family had a predominating political influence as representatives of the great Lord Somers, to whom King William had granted the Manor. He represented this borough till 1747, when he was succeeded at Reigate by his brother Charles, and when, as already mentioned, he was returned as one of the members for Cambridgeshire.

He took in general no very leading part in the discussions of this period, but spoke occasionally and to the purpose, and attended regularly the sittings of the House. He compiled a "Parliamentary Journal," which contains notes of the debates in both Houses and of the political transactions between December 1743 and April 10, 1745, and which has been mostly incorporated in the thirteenth

¹ *Letters*, i. 78.

² The writer, Daniel Wray, proceeds to describe the happiness of the life of the young husband and wife at Wrest. See also Letter cxv., where the marriage is discussed, and G. Harding, *Biog. Anecdotes of D. Wray*, 34, 110.

volume of the *Parliamentary History*. It has great value, not only owing to the scarcity of the reports of parliamentary proceedings of this period, and to the fact that it begins just when the accounts written by Johnson for the *Gentleman's Magazine*, the collections of Timberland and Chandler, and the reports of Archbishop Secker end, but also from the ability with which it is written and which show the author to have been an able politician and an earnest and intelligent student of history.

The course of his life was very different from, and far less active than, that of his brother, partly owing to his birth and marriage, and partly also to a constitution never robust and to a natural reserve, which shunned the turmoil and struggles of public life. Thus, while by his training and turn of mind he might have become an exceedingly useful public servant, he preferred the retirement of Wrest, his books and historical collections, and on more than one occasion declined high office in the Cabinet. The leisure and opportunity for literary pursuits and for study, which were denied to Charles, were enjoyed and turned to good account by Philip. His talent was critical rather than original, and he published in later years several works of considerable historical interest with which his name will always be connected. He had the historian's faculty of evoking and reproducing the scenes and events of the past, and certain fictitious newsletters of his composition of the time of the Armada, of which three or four copies were printed in 1743 as a *jeu d'esprit*, no doubt for the family and intimate circle, when found later, for long passed as genuine documents and as the earliest examples of the English newspaper, and, when their origin was discovered, brought down upon their innocent perpetrator some severe moral reflections from a former librarian at the British Museum¹. He was a generous and judicious patron of literature, maintained a correspondence with many of the great men of letters and art of the time, and became a distinguished figure in the literary world. He was an enthusiastic collector of historical documents, a passion which his large fortune enabled him to gratify, and which was often a subject of a jest within the family.

Meanwhile a pleasant picture of the two brothers, of their career at Cambridge and of their friendships, is given in the life of Daniel

¹ Add. 4106, ff. 27 sqq.; Add. 36,653 (8), f. 1; H. 48, f. 223; *A Letter to A. Panizzi*, by T. Watts 1839; *Gent. Mag.* N.S. (1850), xxxiii. 485-491, kindly communicated by Mr D. T. B. Wood, of the Brit. Mus. As a result, the second Lord Hardwicke appears in the latest calendar of the Add. MSS. at the Brit. Mus. as a "forger."

Wray¹ by George Hardinge. Intimate with many of the leading spirits and writers of the time, they took no part in the violent disputes and controversies between them. "The Yorkes were fond of Mr Edwards and they were admirers of his antagonist [Warburton]². Mr Wray banters his friend upon this duplicity of attachment....'I could not help reflecting how adroitly you two brothers managed the two contending wits. Edwards indulges on *venison* at Wrest while Warburton is entertained with *whittings* at Lincolns Inn. Whichever side prevails, your family is secure; nor is the difference of the fare neglected; just in proportion to the respective merits of the "Canons" and of the "Dunciad Notes."³" "Mr Yorke had most incomparable talents and virtues," says the author, "but he had the defect (and general society were the sufferers) of reserve, inherent and constitutional. It was often called pride, and was accompanied (as in studious men it often is) by fits of absence. But I have seen him in company with his friend Wray, and I never passed a more enlightened or a happier hour."³ Charles's temperament was otherwise. He was more expansive and emotional, of a nervous, anxious and excitable disposition, with spirits easily raised or depressed by good fortune or the reverse, and health quickly affected by his mental condition; while his appearance, distinguished by no regularity of features but animated by great charm of expression, is in contrast with the handsome, sedate, kindly and somewhat impassive figure of his elder brother. Of the three younger brothers, of Joseph now, on April 26, 1741, beginning his military career as ensign in the Duke of Cumberland's regiment of Guards, and destined to take part in the great battles and campaigns of the period, of John and James still at school or college, and of their two sisters, Elizabeth and Margaret and their charms and marriages, we shall have reason to make mention later.

¹ Wray was Philip Yorke's Deputy-Teller at the Exchequer and a trustee of the British Museum; son of Sir Daniel Wray, Kt, a correspondent and guest of the Chancellor and of his sons. "The Yorkes were children to him." G. Hardinge, *Life of D. Wray*, 12, 34, 73.

² William Warburton (1698-1779) the well-known controversialist, friend of Pope, incompetent editor of Shakespeare, afterwards Bishop of Gloucester. The "grotesque audacities" contained in his notes on Shakespeare were "brilliantly exposed" by Thomas Edwards (1699-1757) in a supplement (1747) to Warburton's work, entitled in later editions "Canons of Criticism," to which Warburton replied by insulting notes in his new edition of the *Dunciad* and by seeming insinuations that Edwards was not a "gentleman." See articles on both by Leslie Stephen in the *Dict. Nat. Biog.* and note in J. Nichols, *Select Collection of Poems* (1780), vi. 103.

³ *Biog. Anec. of D. Wray*, by G. Hardinge, 20, 54.

The happy situation of the Chancellor's family was all the more fortunate, for his thoughts were now to be entirely occupied with the preparations for carrying on a great war, and for the defence of the country against rebellion and invasion, a crisis which called forth all his energy and firmness.

Lord Hardwicke occupied a rare and exceptional position in the administration. The nature and extent of his power will be clearly seen and understood as this narrative proceeds. But it is one difficult to define; for it did not rest upon the usual foundations of political supremacy, royal favour, popularity, a vast parliamentary interest, the brilliant gifts of oratory or the like. Its basis was a moral one and depended chiefly upon the authority exercised by his personal influence. Much of this influence doubtless arose from the great reputation which he had already built up for himself as a Judge and Chancellor. This gave him an advantage and an independence which were not enjoyed by the other ministers. He alone in the Cabinet had no rival desirous to supplant him in the King's favour; and he was thus raised above the anxieties, the petty jealousies and intrigues in which his colleagues were necessarily involved. He had no political ambitions. It was possible for him to judge all measures from the national point of view alone, while others were forced to take into consideration private interests. But the chief source of this influence was the universal confidence that he inspired in all classes. It was said that his judicial decisions satisfied even the parties against whom he pronounced decrees, so great was the reliance placed in his equity¹. The same trust was reposed in him in the political world, not only by his fellow ministers in the Cabinet, not only by the Sovereign, whose most cherished wishes he frequently found it his duty to oppose, not only by the Parliament and the nation, who were wont to except his name from the condemnation and ridicule with which they visited unpopular ministers, but also by his political antagonists, who, when they had greatest cause to resent his support of the government, still retained their respect and affection for him as a man of honour "and integrity"².

Nor was this confidence misplaced, for it rested on the bed-rock

¹ See chap. xxvi.

² E.g. Duke of Argyll above, p. 183, and Lord Carteret, Duke of Chandos to H. April 10, 1741 (H. 238, f. 348), "His abilities are certainly very great and what makes me still more earnestly wish his conversion is the great veneration I have heard him more than once profess for your Lordship," and Lord Bolingbroke, pp. 115, 192.

of a strong, blameless and upright character. Moreover, he had none of the self-consciousness which sometimes detracts from greatness. There was nothing in him of the boastful and irritable self-assertion which obscured so greatly the splendid abilities of Pitt, or of the exclusiveness and jealousy with which Walpole maintained his supremacy, or again of the delight in the possession of power and patronage which characterised the Duke of Newcastle.

Lord Hardwicke was content to use his influence unobtrusively, without any appearance of power and with an inclination rather to confine himself to the sufficient labours of his own special judicial duties than to interfere in the political sphere. No man practised more successfully than he the blessed art of the peace-maker. By the exercise of an unrivalled tact and knowledge of the world and of men, of untiring patience, calmness and good humour, appealing sometimes to personal feelings and sometimes to the sense of patriotism, he managed to secure a working agreement in the midst of the interminable dissensions between the King and his ministers, the ministers and the opposition and the ministers themselves. Whether the various measures adopted by the administration of which he was a leading member can all be approved by the historian, is a matter of opinion. But the great merit of Lord Hardwicke does not rest alone upon these, but upon the incontestable fact that he enabled "the King's government to be carried on," preserved the State with his strong guiding hand from supreme dangers which menaced its very existence, and maintained law, order and public security when all threatened to fall into confusion.

CORRESPONDENCE

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 31.]

NEWCASTLE HOUSE, [n. d. (c. March, 1737)].

MY DEAR LORD,

You must forgive me for troubling you so often upon the same subject [the Porteous case], but as I see the confusion which must unavoidably arise in our House, upon the Scotch affair, if not prevented by some step, which those that are for doing what is right, shall agree in, and as nobody but yourself can, or shall, determine for me, what is proper to be done, I must beg you would seriously consider before Monday in what way we shall further

conduct this entangled affair. [He states the various points on which he desired Lord Hardwicke's advice and the several methods proposed of dealing with the matter, and continues :] I mention these things only as they occur to me, on which I have formed no opinion, but that some resolution must be come to amongst ourselves about them.

Many other things will occur to you, and I shall conclude as I began. I am ready and desirous to follow exactly your advice, and I hope from your goodness to me, as well as really out of regard to the public and the honour of our proceedings, you will let me have it. I shall dine at home on Monday. I wish you would dine with me or appoint some time in the day that I might have half an hour's conversation with you. Did you know the anxiety I am under, to conduct myself in every respect irreproachably, I am sure you would help me out of it.

I am, My dearest Lord,

You most affect. servant,

HOLLES NEWCASTLE *.

Lord Chancellor to the Duke of Newcastle

[N. 5, f. 299.]

Powis House, June 16th, 1737, at night.

MY DEAR LORD,

Not having had the honour of seeing your Grace since Wednesday night, I could not be easy without taking the first opportunity of explaining some things which then passed, tho' I flatter myself your Grace is so well assur'd of the respect, affection and attachment which I can never fail to have for you, as to be induced to put the best construction upon everything. I was indeed sorry that I had no opportunity of previously acquainting your Grace with the sentiments I then declar'd; but I do most sincerely aver that I found them whilst I sat at the table upon what then newly appear'd and was not known to me before....I am sensible that I ought to ask much pardon of your Grace for interposing at the time I did, in a manner somewhat abrupt. But I thought a handle seemed to be given which might make it in some degree excusable; and I beg to be believed when I assure your Grace that nothing but the highest regard and, permit me to say, friendship for your Grace could have prevailed on me to do it. I saw plainly that the thing, as it was then circumstanced, must of

* This letter was written in February or March, 1737, when Porteous's affair was before the H. of Lords. II.

necessity go¹; and I was really desirous to prevent any irritating or provoking things passing which might tend to widen our breaches, at a time when union and concert is most necessary. Your Grace is so sagacious that I persuade myself I need not have said this, tho' my desire to stand justified in your good opinion has made [me] do it. Surely I need say nothing about my going away; for in truth that was owing merely to the fatigue I was under by sitting from eight o'clock that morning, and the necessity of sitting at the same hour the next, and to no other reason in the world.

I spent two hours with Sr. Robert Walpole last night. He talked more calmly about this great affair than he has sometimes done; and directly declared his intention to have two or three Cabinets before he goes into Norfolk, in order to consider what hostile measures may be fit to be undertaken, in case an unsatisfactory answer should come to Sir Thomas Geraldino² upon this proposition; and by the way he did not talk in the most sanguine manner about its success. He expressed strong apprehensions lest your Grace should write to Mr Keene³, *invita Minerva*, and that should spoil it. You may easily guess what I would reply on that subject, but permit me to say that I hope and trust you will give no handle for suggestions of that kind on this occasion. The whole Cabinet Council has gone so far in it, that I should humbly conceive your Grace need have no tenderness or nicety to state the whole affair fully, and that in a favourable light, and to give him all the instructions that were then suggested and can be necessary....

Forgive, my dear Lord, the freedom I have now taken, the motives of which I will not repeat, but sum them up in the sincerest assurances of my being ever most faithfully and entirely

Your's

HARDWICKE.

P.S. Fail not to burn this letter⁴.

¹ The reference is to the negotiation with Spain.

² Spanish envoy in London.

³ Benjamin Keene (1697-1757), afterwards Sir Benjamin, British Ambassador at Madrid.

⁴ Also f. 346.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 39.]

KENSINGTON, August 25th, 1738.

MY DEAR LORD,

I must begin with returning you thanks for your late great goodness to me. It is impossible to give greater marks of your particular affection, or of your undeserved regard, than you have done by the manner in which you have executed your kind commission. It has, I hope, answer'd your own intentions. Everything seems well, and by a continuance of advice on one side, and your powerful interposition on the other¹, as well as from the inclination of both parties, I dare say it will continue so.

We have had our conference with Fitzgerald....Sir Robert spoke with all the firmness imaginable, and we all told him, there was an end of the whole affair....I have agreed to meet you to-morrow at Petersham, at Lord Harrington's. Sir Robert and all of us beg you would not fail to be there....Pray, my dear Lord, don't fail to come. Horace² begs you would be there by twelve o'clock.

I am, most sincerely & affectly yours,

HOLLES NEWCASTLE.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 64.]

BISHOPSTONE, Dec. 2nd, 1738.

MY DEAR LORD,

[After congratulating him on the falling in of the Tellership of the Exchequer in favour of his son³, he proceeds:]

As the public, and more particularly those, who were honoured with your more intimate acquaintance and friendship, were highly interested, to have you accept the great office you now enjoy, it must be a satisfaction to all your servants, that the only request you then made should be fulfilled to you. Give me leave, my dear Lord, to wish for the sake of us all, that you may long possess with ease and satisfaction the great station you now fill so much to your own honour, and your Country's service. I can never think of your public merit, without a just sense of my own peculiar happiness, in being so remarkably favoured with your private friendship, assistance and advice, of which I hope I shall ever retain the most grateful remembrance.

We have had very good sport, and found the country in mighty good humour....

HOLLES NEWCASTLE.

¹ *i.e.* with Walpole, and with himself, the Duke, respectively.

² Horace Walpole, Sir Robert's brother, p. 162 *n.*

³ p. 159.

Duchess of Marlborough¹ to Lady Hardwicke

[H. 505, f. 11.]

January 23rd, 1739, Tuesday morning.

MADAM,

I was very sorry that anything should happen to hinder me of the pleasure of seeing you last night when you was so good as to give yourself the trouble of coming here. And I am very sensible of the great favour my Lord Chancellor does me in the message you left. I was surpriz'd at his thinking of me at all; and, as he had no call to do it, if you had not left the message you did, I should have concluded with reason, that his business is so very great that 'tis impossible for him to have so much time in his power as to come to me. And I am only sorry that he has not perfect health. Now I am writing, I am tempted to tell you my reason, why I don't wait upon you as I have always inclinations to do; and, as I could do, since you give me leave to sit in a chair. For I do solemnly protest that without any by-end, nobody's conversation is so pleasing to me as yours and my Lord Chancellor's. But I consider, as I have a cause of great consequence coming before him, tho' nobody can be so simple as to imagine, that I could influence his Lordship, yet I would give no handle to foolish and ill people to spread falsities of me, in which the generality of the town have always been very fruitful. I don't know whether this be good reasoning or not, but 'tis the real truth, Madam, of my denying myself the pleasure of waiting upon you, or of making any enquiries, except one which I could not help, upon being much concern'd at hearing that my Lord Chancellor went ill out of Court. As soon as this trial is over, I reckon my restraint will be at an end, and I may follow my inclinations as much as will suit with your convenience. For, tho' your business is of another sort, I reckon you are as fully employ'd as your Lord. At present I am very easy, except a tormenting complaint of itching, which hinders me from sleeping in the night. As to what some people would call a great trouble which my ungrateful and very foolish grandson², by the advice of honest Mr. Lamb³, has

¹ Sarah, the celebrated Duchess of Marlborough, daughter of Richard Jennings of Sandridge, widow of the first Duke (1660-1744). The latter part of her life was spent in lawsuits, mostly connected with the building operations at Blenheim, and in quarrels with her children and grandchildren. Lord Hardwicke appears to have been one of the few persons for whom she had any respect. See above, p. 136.

² Charles Churchill (1706-58), grandson of the first Duke of Marlborough, succeeded his aunt Henrietta, Countess of Godolphin and Duchess of Marlborough, as third Duke in 1733; K.G. 1742; brigadier-general, served at Dettingen; afterwards Commander-in-Chief of the British forces under Prince Ferdinand of Brunswick; noted for his extravagance; engaged in litigation with his grandmother: a decree made by Lord H. in *The Duchess of Marlborough v. The Duke*, H. 505, f. 71; A. T. Thomson, *Mem. of S. Duchess of Marlborough*, ii. 405 sqq.

³ Assisted the Duke in raising money on the estate and on his expectations, *ib.* ii. 407-8.

given me, I think I am oblig'd to him for it; because I am very certain that 'twill appear in Chancery, that never any trust before was so carefully and disinterestedly perform'd, and that I have acted in such a manner that it would have been vanity in me to have made it public, if by the Duke of Marlborough's folly I had not been forc'd to do it; and I am assur'd by the best judges that he can hurt nobody but himself. I beg pardon for this trouble, and am with the greatest truth,

Madam,

Your Ladyship's most faithful and most
obliged humble servant.

S. MARLBOROUGH.

Bishop of Bangor¹ to the Hon. Philip Yorke

[II. 257, f. 6.]

KENSINGTON, Feb. 13th, 1739.

DEAR SIR,

...Yesterday was a day of some remark. Whitehead, the author of *Manners*, a Satire, was order'd to appear, but he chose to abscond and nobody but Dodsley, the printer, was brought to the Bar²....The author not appearing, the question was put whether the printer should be taken into custody, and Lord Chancellor, finding the House dispos'd to divide, endeavour'd to prevent it by shewing how consistent it was with truth and right liberty to censure such flagrant licentiousness ; notwithstanding which the House divided about the printer, tho' they seem'd to be of one mind with regard to censuring the author. The majority was against the printer, 160 odd to 30 odd, and Dodsley is now in the Gatehouse. Great fears were express'd about losing our most valuable liberties, and a very young Lord³ spoke with great heat and passion against the censure, but very little to the purpose. For my own part, I think it right what is done, and I don't apprehend that either wit or virtue or good sense will in any degree suffer by correcting the authors or the spreaders of personal slanders. I think these things shew great want of wit, and I am sure, in spite of Mr. W's title, of decency and good manners. I pray God I may prove a false prophet, but I fear exceedingly, that this nation which has been saved by liberty may, before you are an old man, be undone by licentiousness....

I am, Dear Sir, with very particular affection,

Yours &c.

THO. BANGOR.

¹ Thomas Herring (1693-1757), formerly preacher at Lincoln's Inn and Dean of Rochester; an intimate friend of Lord H. and his family; Bishop of Bangor 1737; later Archbishop of York, and subsequently of Canterbury. See p. 422.

² p. 190.

³ Lord Talbot.

Thos. Clarke¹ to the Hon. Philip Yorke

[H. 257, f. 8.]

Feb. 17th, 1739.

... My Lord Chancellor has given universal satisfaction by his behaviour in that debate ; and has convinc'd everybody (who's not proof against conviction) that liberty, tho' it be uppermost in the thoughts and conversation of all of us, is, nevertheless, a subject that is very seldom rightly understood by any. You know, sir, it was anciently thought that when men entered into society they gave up part of their natural rights into the hands of the Magistrate. But our modern patriots think that the perfection of a free government consists in doing what each individual thinks fit, and even more than he would have right to do in a state of nature....

Lord Chancellor to the Duke of Newcastle

[H. 58, f. 112.]

March 15th, 1739.

MY DEAR LORD,

I was extremely sorry to observe in your Grace so much uneasiness as you discovered to-day in the House of Lords ; and when I found it proceeded from something you had taken ill in my behaviour last night, it gave me an inexpressible concern. I will not attempt to enter into explanations in writing on so nice a subject, but if your Grace knew my heart, you would want no conviction of my unsign'd and unalterable regard and affection for you and the steadfastness of my intentions for your service, as well as to preserve that good harmony which hath been so long labour'd for on honourable terms. I had no other view, and that view I shall continue to pursue to the best of my poor capacity, till I see (what I hope never to see) that it is desperate. But permit me, my dear Lord, to say that it is utterly impossible for me or anybody else to do this, if one is not to be permitted to endeavour to soften things [and] to avoid the determination of points on which our friends may be likely warmly to differ, at a time when they are not necessary to be determin'd, especially when under the present circumstances of affairs it is probable they may never become necessary to be determin'd. This is my way of thinking, and if in this I have erred I am sorry for it....

¹ Thomas Clarke (1703-64); K.C. 1746; M.R. and Knight 1754.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 126.] NEWCASTLE HOUSE, Friday morning. [March, 1739.]

MY DEAR LORD,

At my coming home last night I received your Lordship's most tender and affectionate letter. I never entertained one moment any doubt of your goodness and friendship to me, of which I daily receive such valuable proofs, but I must own I was extremely hurt, to find myself so universally blamed the other night by all my best friends; and as I knew I intended nothing more, but as Chavigny says, *de constater nos principes*, the opposition I met with from a certain quarter, I thought no good omen for our future proceedings.

However, your kind letter has convinced me that I misjudged the time, and I heartily wish I could have had your previous opinion, and then I am persuaded, I should have submitted to it. *Habes Confidem Reum*, and I have only one further favour to beg, that notwithstanding what has passed the other night, you would continue the same kind and friendly advice, and pursue in your own way the view you had so affectionately followed, of preserving that good harmony which is so much to be desired, for public as well as private reasons.

As to the measures to be taken with regard to the public, I am persuaded you and I don't differ, and as to the time or means of bringing them about, I shall hereafter entirely submit to your better and cooler judgment. I shall call upon you for one half hour this evening before eight o'clock, if you will give me leave, and am, if possible, more than ever,

My dear Lord,

Most sincerely and affectly. yours,
HOLLES NEWCASTLE¹.

Lord Chancellor to the Duke of Newcastle

[N. 7, f. 64.]

POWIS HOUSE, June 2nd, 1739,
9 at night.

MY DEAR LORD,

I have just time to acquaint your Grace that our conference last night passed off very well. Sir R. Walpole began in a strain of melancholy and complaints—I don't mean personal, but relating to things and circumstances. I endeavoured to shew him that his difficulties arose chiefly from a fix'd opinion in many, and from a suspicion in some of his friends, that nothing would be

¹ Further f. 129.

done against Spain; that this might be discern'd from the difference in our divisions upon matters relative to that great affair, and any other court points; that as things were come to a crisis and Spain had broke the Convention, that was a new event upon which even he might take a vigorous part without contradicting any opinion or measure he had avow'd before, that this was new ground to go off upon. He allowed a great deal of this, and I really think is determin'd to act with vigour to a certain degree. He went so far as to say that he thought it necessary to begin immediately, for that nothing would be more embarrassing than if Spain should now offer to pay the £95,000¹, attended with a suspension of the Assiento treaty². The principal view of our meeting was explained to be to settle what should be proposed to-morrow night in Cabinet. Without entering into the detail, the result was to send immediately orders to Haddock³ to lie before Cadiz forthwith and commit all kinds of hostilities at sea, to strengthen Brown's squadron⁴, and send the like orders to him as to hostilities, and in particular to seize the galleons or flota, which is returning from America and all other Spanish ships at sea, to send for eight regiments from Ireland and augment them to English numbers. The giving notice to the merchants in Spain and an immediate press I pass over as consequential. He seemed averse to expeditions but apprehended that the Marshal⁵ might propose something of that kind. Sir Robert threw out, who should propose this scheme of his own?—and it was soon agreed that it could be nobody but your Grace or himself. He seemed not inclined to propose it and yet I think not determin'd against it; and I don't know whether, on consideration, he may not be willing himself to state the distinctions on which he will now proceed. If he should not, I presume your Grace will have no difficulty, for I don't see how it is possible *immediately and at present* to do more....

Most faithfully and affectionately with the greatest respect,
My dear Lord, ever yours,

HARDWICKE.

¹ p. 187.

² p. 185.

³ Nicholas Haddock (1686–1746), son of Admiral Sir Richard Haddock; Commander-in-Chief in the Mediterranean; M.P. for Rochester; Admiral 1744.

⁴ Commodore Charles Brown, Captain of the "Hampton Court," commanded in the Mediterranean 1738; joined Vernon in his ship at Portobello 1739, and led the successful attack on the place; Commissioner of the Navy 1741–53, till his death.

⁵ No doubt the Duke of Argyll (1678–1743), who had earned military distinction under Marlborough, and in suppressing the rebellion of 1715; Field-Marshal 1736: became an opponent of Walpole about this time. See p. 183.

Duchess of Marlborough to Lady Hardwicke

[H. 505, f. 13.]

August the 5th, 1739, Monday.

MADAM,

I cannot satisfie myself without beging your Ladiship would take an opportunity to give my Lord Chancelor my most sincere thanks for the justice he did in Bobart's cause¹, and for his goodness in enquiring after my health. The cause being now over, I think there can be no reason that I should not endeavour to express myself as well as I can on this occasion. And tho' I think it might appear hard to some that the Ex[ecut]ors had not costs given 'em, who have paid great sums at Crown prices (tho' [? thro'] the debt rais'd in 1715, which will be demonstrated in other causes), and costs too; yet I really liked what my Lord Chancelor did, and was convinced by his reasons. For tho' a very mean man purchas'd estates by the abuses at Blenheim, I do think it would have been more trouble for me to have got the costs of Bobart than anything of that kind is worth. I long of all things to be at liberty to wait upon you as I us'd to do; and I hope it won't be a great while before I shall have that pleasure; for the next cause that will come on is that of Travers², which is a thousand times worse than Bobart's, and infinitely more ridiculous. And therefore I think it will give my Lord Chancelor very little trouble, which I am glad of; because I do pity extremely what he suffers in hearing so much repetition, which I take the liberty to call nonsense, on the side of those that are in the wrong. I heartily wish the fatigue he endures every day may not prejudice his health, for I believe you don't wish his life may continue long with more truth than I do, who am with great inclination and esteem...

S. MARLBOROUGH³.

[The Chancellor writes to the Duke of Newcastle, August 4, 1739: "Your Grandmama [*i.e.* the Duchess of Newcastle's] did the Court of Chancery the honour to be there again yesterday morning by half an hour after seven o'clock. *Quam viridis senecta.*"] [N. 7, f. 204.]

Lord Chancellor to the Duke of Newcastle

[N. 7, f. 256.]

CARSHALTON, *August 26th, 1739.*

MY DEAR LORD,

I...rejoice much in the success of your Sussex expedition....

¹ Appointed or constituted himself gardener at Blenheim: A. T. Thomson, *Mem. of S. Duchess of M.*, ii. 531-2. For the case and the Chancellor's decree see H. 700, f. 149.

² Superintendent of the works at Blenheim, *ib.* ii. 531.

³ For Lady H.'s letters *Hist. MSS. Comm.*, Rep. viii. (1) 54.

As your Grace has had *your* expedition, so I have had one of my own. I took the advantage of the last week of leisure to go to Portsmouth with three of my sons and drank to *Good Success against Spain* on board the Princess Caroline, at Spithead. I have many obligations to Sir Charles Wager¹ and Admiral Cavendish for abundance of honours and civilities which were shewn us there, and in truth was never better entertain'd in my life than with what I saw there.

The safe arrival of the Azoynes is certainly an unlucky event but I think not what one should be cast down at; because the meeting of a few ships at sea is so uncertain a chance as can never be depended on. Neither do I think that anybody can possibly be blamed for it, for it was impossible to watch the whole coast of Spain²....

I entirely agree with your Grace that in some way or other our fleets should be put upon action. You know my notion is, in the West Indies; and as they have no winter there, the season of the year makes that the more proper. But your Grace and I can only press that in general; and if our Admirals and men of skill in that way do not reduce it to some precision, and fix on some particular *designs*, it will be of little effect....

My wife joins with me in our best compliments to your Grace and the Duchess of Newcastle with hearty thanks for your fine Pine-apple.

I am ever, with the utmost respect and affection,

Most faithfully yours,

HARDWICKE.

Hon. Joseph Yorke³ to the Hon. Elizabeth Yorke

[H. 39, f. 1.]

CARSHALTON, August 31st, 1739.

DEAR SISTER,

Since we came to this place by Papa's kindness we have spent the last week the most pleasant that I ever did in any holy days. He was so kind as to take my brothers and me with him to Portsmouth and thinking it would not be disagreeable to you to hear how we were entertain'd, tho' I believe from my

¹ First Lord of the Admiralty.

² See further H. to N. September 14 (N. 7, f. 300), justifying the Duke's orders. Vernon had been ordered to cruise off Cape Finisterre to intercept the treasure ships (H. 58, ff. 136, 140 sqq.), but they succeeded in eluding him.

³ Born in 1724; the first letter from this afterwards prolific correspondent.

description you will hardly conceive any idea of it, nevertheless I shall venture to send as good an account of it as I can.

On Tuesday, August 21st, we set out from Carshalton about 8 o'clock and had a most delightful journey over the Downs to Guildford, where we dined, and afterwards continued our journey over a country far different from that in the morning; for instead of fine seats, corn fields, sheep and grass, we could see nothing but a few straggling cottages, and a barren sandy desert, over which we continued our journey to Liphook, where we lay; and the next morning, being August 22nd, we set out by seven and went on upon our journey. When we were got about a mile from Liphook, the wind rose and it rained very hard, so that we could not see 20 yards before us, which, added to the barrenness of the country, made a very dismal appearance. We continued thus till we came to Petersfield, when the weather began to mend, and passing the forest of Bear we came at last to some Downs about 3 miles from Portsmouth where, from the top of the hill, we had a very fine view of the sea, the town, Port-Chester and the Isle of Wight. We arrived at Portsmouth about 12 o'clock. The entrance is thro' 2 gates and over 2 draw-bridges, it being a fortified town, and fortified both to the sea and land. We got a dinner at the Inn where Admiral Cavendish, Mr Hughes, Commissioner of the Dock, Capt. Griffin, Captain of the Admiral's ship, Capt. Smith, who is a Dover man¹, and Dr Brady, at whose house we lay, din'd with us. Before dinner the Mayor and Corporation presented Papa with the freedom of the Town, and after we had din'd, we drank tea at the Admiral's, and then proceeded to the Dock-yard where we saw all the stores for the ships; first the masts of all sizes, the next thing was the rope walk, which is a room of 340 yards long so that when you are at one end the men at the other look like boys. There they make the ropes which at first are no thicker than pack thread, but many being twisted together make rope which at last produce vast cables. We afterwards saw the place where they make the sails and flags and then went on board a new ship called the *St George* of 90 guns, which is reckoned one of the best ships that was ever built, but is not yet launched, not being quite finished. We then proceeded to the Academy, erected at the expense of the Crown, and is a very good, strong, plain building. Here the masters attended us and shew'd the boys' drawings, and the orrery, which is the best that was ever made. We then went to the Commissioners and were refresh'd with wine; and having sat about half an hour, we went to the Admiral's, where there was a very elegant supper provided for us, and about half an hour after ten we retired to Dr Brady's where we lay. The next morning, August 23rd, was very cloudy and a brisk wind. After breakfast we went on board the Commissioner's yacht and were received with a salute of 6 guns². Having weighed anchor, we proceeded on our voyage to Spithead, about 3 miles off

¹ See p. 311.

² Lord Hardwicke was one of the Lords of the Regency.

Portsmouth, where the Admiral's ship and 2 other men of war lay. The wind and tide being against us, and the sea a little rough, gave us an opportunity of seeing more of the manner of sailing than we should otherwise have done. To confess the truth, I never was more, nor indeed so much, pleased with anything I ever saw before, tho' mixed with bitter; for being but a fresh water sailor, I was a little sick; but by the help of a little rum on board the Admiral I soon recovered. When we drew near the ship, what with the sounding of the drums and trumpets, the men all in their stations on the ropes and the ship in her best dress, I think I never beheld a more cheerful and pleasing spectacle. We then walked over the ship and saw all the ammunition, provision, etc. It is surprising to reflect how so small a fabric should contain so many men and provision for them for so long a time, and one is amazed to see what regularity and order (tho' quite necessary) is kept thro' the whole ship. We were entertained in the Admiral's cabin (which is a large and handsome room) with cake, sea-biscuit and wine. After some stay there we went into the Admiral's barge, which was row'd by 12 men in clean white shirts and caps of the Admiral's livery. When we were got a little way from the ship, the sailors again took their stations on the ropes, or to speak like a sailor, manned the ship, and gave us three huzza's accompanied with a salute of 17 guns, the former of which was answered from the barge. We were but 20 minutes rowing back, tho' we had been an hour and three quarters sailing to the ship in the yacht. When we came on shore we dress'd and din'd at the Admiral's, where we had a very handsome dinner of nine and eleven; and afterwards we saw the gun-wharf and all the military stores, such as, bombs, hand-grenades, chain-shots etc. and all the furniture and rigging of a fireship, which is indeed a very wonderful, as well as a dreadful sight. We then walked round the fortifications which are the more curious, Portsmouth being the only regular fortification in England. We supped at the Commissioners and the next morning set out for Carshalton, where on Saturday we arrived to dinner in high spirits and good health.

Thus have I given you a very dull and insipid account of the vast pleasure that I myself had, and tho' it is not to be expected it will entertain you in the reading as it did me in the seeing, yet if it creates you any amusement for one quarter of an hour, it will fully answer the hopes and expectations of

Your affectionate Brother,

JOSEPH YORKE.

The Duty and service of all here attend on Lady Jekyll¹ and Lady Williams².

¹ Sister of Lord Chancellor Somers, wife of Sir Joseph Jekyll, Master of the Rolls, and aunt of Lady Hardwicke.

² Sister of Lady Hardwicke.

[H. 58, f. 152.]

[On September 28th 1739 the Duke of Newcastle reports to the Chancellor "a very extraordinary incident." The King had been induced through the influence of a person unnamed, but who is evidently Lord Harrington, then a great favourite of the King and who supported the royal Hanoverian inclinations, to suddenly change the plans of the Cabinet and order the return home of Haddock from the Mediterranean.] I afterwards acquainted Sir Robert with what passed, who, to do him justice, has thought and acted extremely well upon it, and has set everything right again. Haddock is to stay abroad, no regiments to be raised till the meeting of the Parliament, and then those to be Marines; and I verily believe Sir Robert's consideration for your opinion, has been the great, if not the only, inducement to him to set this right; for upon both points, his own opinion is certainly rather on the other side of the question. But, my dear Lord, how is business to go on? If one, who scarce ever speaks his opinion in Council and never says one word in Parliament, is to overturn the opinion of the Lords, which Lords are afterwards to support his measures in Parliament contrary to their own advice given formally in Cabinet Council to the King.

These whisperers will destroy everything. You see I write in great freedom and beg you will burn my letter.

I have obey'd your commands. Sir Robert Walpole desires you would dine with him in London, on Tuesday next, upon a New Park¹ turkey, and we will have a Cabinet at 7 o'clock in the evening....

Sir Robert is now in seeming good humour with us. I wish, during your stay in Town, you would talk seriously about our great question of the Privy Seal², and shew him the impossibility of its being in this way. I think by his general manner, he must be off from it, tho' he has not said one word upon the subject.

I am, my dear Lord, Your affectionate and troublesome servant,

HOLLES NEWCASTLE.

[N. 7, f. 348.]

[The Chancellor on September 29, in answer, discusses the question of the right of search and promises to consider the declaration of war about which he had doubts, and adds:]

¹ Sir R. Walpole's hunting lodge in Richmond Park.

² The proposal, so distasteful to the Duke, of appointing Lord Hervey to this office. See pp. 93, 229.

Your *extraordinary incident* is indeed very extraordinary. We are all obliged to Sir R. Walpole for setting it right again. That way of making court in the Closet may now and then do *little private* service to particulars, but must be a great embarrassment to the *public service*.

...I am glad to find you think our friend is at present off from his point on what you call *the great question*. I think nothing can tend so much to keep him off from it as avoiding altercation, and disputing with him at our meetings and Councils, as much as may be; and for which, I own, I do not, in his present turn and way of acting, see much occasion.

[N. 7, f. 352; also ff. 362, 385 and H. 58, ff. 148, 156, 160.]

[In a further letter, of October 2, 1739, he discusses the proposed Portuguese alliance and suggests alterations in the draft sent to him by the Duke.]

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 164.]

CLAREMONT, Oct. 14th, 1739.

MY DEAR LORD,

The liberty your Lordship has given me upon all occasions to write to you, with the utmost freedom, and particularly upon whatever relates more immediately to ourselves, has determin'd me to take this way of laying before you my thoughts upon the great event, that is now in agitation....

I shall in the first place consider the advancement of my Lord Hervey to the Privy Seal, as it will affect your Lordship, the Duke of Grafton¹, my brother² and myself, who, I think, are the only four that are immediately concern'd, and are yet acquainted with this extraordinary measure. The great and deserved weight and credit which your Lordship has, both in the House of Lords and in the Council, arise undoubtedly from those great qualities which are inseparable from you to which, those that are at present in the King's service in the H. of Lords, do the greatest justice and pay the greatest deference; and it is no disagreeable circumstance in the high station in which your Lordship is, that every man in the H. of Lords, now knows that yours is the sense of the King's administration, and that their interest goes with their inclination,

¹ Charles Fitzroy, third Duke of Grafton, grandson of Charles II (1683-1757), K.G.; Viceroy of Ireland 1720-4; a Lord of the Regency; Lord Chamberlain 1724-57. See Walpole's *George II* (1847), i. 181.

² Henry Pelham (c. 1694-1754), son of Thomas, first Lord Pelham, and younger brother of the Duke of Newcastle, M.P. for Sussex; Paymaster of the Forces and, after the fall of Walpole, First Lord of the Treasury, of whom much more hereafter.

when they follow your Lordship. How long that will continue to be the case, when this promotion is once made, I must submit to your own judgment. When the man is placed next to you in rank (for my Lord President¹ takes no share in the debates), who is the only man in the whole House, that has ever presumed to behave indecently to you there, which he has done upon more occasions than one, whose principle and practice, instill'd into all his *little click*^{*}, is to cast a slur upon that profession of which your Lordship is the Head, and to endeavour, tho' without success, to wound you, thro' the sides of the law, which is the constant topic of all his conversations and in places, where it will, I fear, have greater weight when he is advanced to a higher station². The great encomiums that are given to his abilities show that (in the opinion of those that give them) they are equal to anybody's, and if any circumstance in his conduct should give him the preference with them to others, it must be expected that his promoters, who have carried him so high, would go one step further and set him quite at the head of the House of Lords; and it is not carrying this suspicion very far to imagine that this may be done, with a view to have that in their power, as well as to be an immediate check, both in Council and in Parliament, upon those who may ever have presumed, tho' in the most unexceptionable manner, to have differ'd from them; and however confined, for political reasons, this measure may be represented at present to be to one person, I mean myself, I can never be persuaded but that the manner in which you have upon some occasions deliver'd your sentiments, so much to your own honour and for the King's service, may have had some, if not equal share, in it.

[He then points out how Lord Hervey's promotion would injuriously affect the Duke of Grafton, his brother, Henry Pelham, and lastly himself. He had now been between 15 and 16 years Secretary of State, and for the last eight sessions of Parliament the leader of the Whigs in the House of Lords, where through the friendship and support given him by the Chancellor, he had been enabled, as he hoped, to carry out his duties without prejudice to the King's service. The mutual dislike between Sir Robert and Pulteney in the House of Commons was no greater than the hostility between Lord Hervey and himself.]

What can the world think, then, to see him made Lord Privy Seal, so improper in every respect, as to his rank³, his manner of life, and even that scheme, which he seems himself to have laid down, for his own future preferment. The world must think that

¹ Spencer Compton, Earl of Wilmington (*c.* 1673-1743); younger son of the third Earl of Northampton; he made on several occasions a useful figure-head; First Lord of the Treasury 1742-3. See below, p. 280.

* *Vide Fox. H.*

² See p. 140 and below chap. xx. in the case of the Marriage Act. This was a very clever insinuation of the Duke's, as nothing was so likely to excite the Chancellor's anger as such conduct.

³ The office of Lord Privy Seal was then usually filled by some great personage. .

for some reasons I am not, at present, to be lay'd aside, but to be made useless, and that this man was brought in to have the confidence and real secret of the Ministry; for his behaviour towards me has been such that this extraordinary mark of favour to him cannot be consistent with the least remains of regard towards me; and in this light I do, and shall ever, look upon this step, as it relates to myself. I shall only add one consideration more upon this head, which is in common to us all; and that is that those who think their age, health and other circumstances may not permit them to continue long in the Administration, will take effectual care, by this measure, to make the succeeding one as disagreeable to us four, as 'tis possible.

[He then proceeds to suggest that a general declaration should be made to Sir Robert of their refusal to acquiesce in the appointment.]

Everybody but myself has indeed express'd their dislike and disapprobation of this measure, but in such a manner, that I have reason to think, that Sir Robert Walpole is willing to fancy that it will pass easily over; and that what has been said upon the occasion proceeds more from an affection and regard for me than from any strong aversion to the measure itself. This, with the different turn I gave to it at Claremont, has made me the single object of Sir Robert Walpole's resentment, which he has carried so far as even to avow an indifference as to the uneasiness and dissatisfaction that I may have upon the occasion; and as he knows he cannot make me easy with it, he is loading me with all the unjust accusations that the natural jealousy of his temper and the exuberance of his fancy can suggest. And here he thinks he shall succeed, and I own I am a little of his mind. It is so fashionable in all my friends (and when I say this to your Lordship I must except you) to think me in the wrong upon every occasion, that so far Sir Robert Walpole has my own friends on his side. But they don't consider, that they can't stop him when they would; when once they own I have been so much to blame towards him, he will act in consequence of that as he thinks proper, and not as they like. My dear Lord, I know myself as well as any of my friends know me. My temper is such that I am often uneasy and peevish and perhaps, what may be called, wrongheaded, to my best friends; but that always goes down with the sun and passes off as if nothing had happened; but I can never charge myself with ever having been wanting essentially towards those I professed a friendship for in my whole life.

The singling me out, therefore, in this manner, because he thinks it may gain some credit, is the poorest, most unjust and most ungenerous part that I ever knew; and in order to form a true opinion of this matter, I beg you will consider, whether more than ordinary professions of friendship and regard have not been made to the Duke of Grafton and your Lordship since this affair began, and whether that can be done in any view but that of

distinguishing you from me and endeavouring by that means to make you less concern'd for what so essentially relates to me; but as I have the most thorough conviction of your friendship and affection to me, of which I am daily receiving such valuable proofs, I must now, in this time of danger and necessity, have recourse to it, and I am authorised by the Duke of Grafton to say that whatever your Lordship shall think proper to do or say, he will readily join in....

Might it be too much to hope for from your Lordship's friendship, that you would take an opportunity to let Sir Robert Walpole see, and that very soon, that if this measure is obstinately pursued, it will be impossible for your Lordship and the rest of us to take that part in the Administration that we have hitherto done, and that if Sir Robert Walpole has any intention to single me out as the object of his resentment, by making this promotion in order to render my continuance in my office uneasy to me, or indeed impracticable, if that should happen to be the case, it would create great confusion in the King's Administration and could not but be resented by those who are so good as to entertain a friendship and concern for me. If you think anything of this kind right, you will word it, in a much better manner than I can do. My meaning only is that Sir Robert Walpole should see that the promoting my Lord Hervey to the Privy Seal would necessarily occasion a breach in the Administration. If I have said too much, or what I have proposed is unreasonable, I hope you will excuse it, as it proceeds from the most mature and impartial consideration that I can give this affair.

My own party, I think, is taken. I have thoroughly weigh'd and considered it. I shall not alone, abruptly, at the beginning of the Session, give up because my Lord Hervey is made Privy Seal; but I shall from that moment determine to have nothing more to do with Sir Robert Walpole, and to take my opportunity of withdrawing from the administration, when I can do it with the greatest duty and respect to the King and with the greatest regard to my own honour and reputation; and I think nobody can blame me, when they consider the reason assigned by Sir Robert Walpole himself for this measure¹, and the profest inclination and dissatisfaction that he has with me.

[Lord Godolphin's retirement was imminent, so there was no time to be lost.] This is then to hang over our heads, and as Sir Robert Walpole will be absolutely master of the time of my Lord Godolphin's resignation², it will be made use of as a rod to scourge us into a good behaviour! This must be cleared up one way or other, and Sir Robert must take his choice between my Lord Hervey and us. If it was once brought to that point, it would soon be determin'd

¹ Walpole's real motive for this improper appointment, which took place in the year following, was to secure Lord Hervey's support, who had great influence in the Royal Closet.

² Francis, second Earl of Godolphin (1678-1766).

the side we wish. I have now, as Mr Pope says, poured out my soul to your Lordship. I beg you would not imagine I have one moment's distrust of your friendship, and give me this immediate mark of it, not to be offended at the liberty I now take. Nobody loves you better, nobody esteems you more; I won't say that may be one of my numerous acts of offence, but that I shall never alter. I shall conclude this long and, I'm afraid, tedious letter with wishing

Si quid novisti rectius istis,
Candidus imperti; si non, his utere mecum¹.

I am ever etc. unalterably Yours,

HOLLES NEWCASTLE.

NEWCASTLE HOUSE, Oct. 16th, 1739.

P.S. I thought it would be too unreasonable to trouble you with so long a letter in such an illegible hand as my own. I therefore made use of the Duchess of Newcastle upon whose secrecy you may entirely depend. These are my own pure genuine thoughts. My brother knows nothing of this letter and if your Lordship pleases, it may remain a secret from him. My heart must be full upon this subject, and I am sorry to say that every circumstance that passes upon every other subject does but too much confirm me in my opinion in relation to this.

Ever yours,

HOLLES NEWCASTLE.

[N. 7, f. 435.]

[In a letter of October 29, the Chancellor informs the Duke that he has had an interview with Horace Walpole, Sir Robert's brother, who has just seen Lord Godolphin. The latter is to retain his office for the next Session, or else Horace Walpole is to persuade his brother to put it in commission.

[N. 7, f. 538.]

On December 27, 1739, the Chancellor, writing to the Duke of Newcastle, urges the immediate dispatch of a new envoy to Russia to counteract the French schemes there, and reciprocates the Duke's good wishes for the New Year.] May you enjoy many, very many happy years of health and prosperity for the service of your Country and your friends; and may you see those breaches, which have lately so much affected all of us, and me most sensibly, amply repaired².

¹ Horace, *Eph.* i, vi. 68.

² Also H. 58, f. 203.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 175.]

NEWCASTLE HOUSE, Jan. 9th, 1740.

MY DEAR LORD,

The great regard and most sincere affection that I have for your Lordship and the value that I put upon your friendship will not suffer me to conceal from you the concern and uneasiness that your uncommon reservedness gave me yesterday, relating to Sir Robert Walpole's conversation with you, especially after I had shewed a more than ordinary inclination to be acquainted with it.

It had, I own, such an effect upon me that I found it influenced in some measure my behaviour last night towards the person who, I thought, had been the occasion of it¹.

I have, my Lord, seen so much of the world and of ministerial confidences, that I have always observed, whenever they have been made to any particular person, exclusive of those who are known to live in the strictest and most material confidence with him, the secret is either not expected to be kept, or if it is, it has always been interpreted as a distrust of, or want of regard to, the persons so excluded. And an administration never so well united (which I wish were our case at present) has always in it some particular persons whom friendship, habit and mutual good opinion have linked more closely together than the rest; and if ever that knot can be so far slackened that it shall be a question with the rest, whether what is said to one, is not equally so to the other, great inconveniences have always arisen and must arise to both.

There was a time when Sir Robert Walpole honoured me with his confidence, equal to anybody, and however strong his injunctions may have been, I don't remember ever to have concealed anything from you, when you had leisure and inclination to be informed of it; and I believe he would think it a vain attempt at present, to accompany any confidence to me, tho' of never so high a nature, with such a condition.

The subject of your discourse was such, as I may presume to say, my character will as well justify; and my station makes as proper to have it imparted to me as to any other person in the Administration. My situation has long been very disagreeable to me. My only comfort, I can with truth say it, has been the friendship and unreserved confidence you have hitherto honoured me with. If that is thought by anybody, tho' never so unjustly, to be capable of a diminution, there can be no ease, I had almost said, no safety for me in this administration.

¹ Presumably Sir R. Walpole himself. Lord Hardwicke was often placed in a difficult position of this kind by the complaints and confidences of one party which could not be repeated, without doing mischief, to the other.

I hope you will forgive the freedom of this letter, which proceeds from the sincerity of the heart of,

My dear Lord, Your most affect. friend and most
humble servant,

HOLLES NEWCASTLE.

Lord Chancellor to the Duke of Newcastle

[N. 8, f. 30.]

POWIS HOUSE, Jan. 9th, 1740.

MY DEAR LORD,

The greatest piece of mortification which I have met with this Fast-day¹, or I hope shall for some time, is your Grace's letter. But tho' it gives me much concern, I know not what to say in writing by way of answer to it. If your Grace could do me the honour to spend an hour here this evening at such time as may best suit you, or let me wait on you to-morrow morning, I am not without hopes that I could satisfy you that nothing has passed that ought to bring the least suspicion upon that inviolable attachment, devotion and sincerity with which I will never cease to be,

My Dear Lord,

entirely yours,

HARDWICKE.

Lord Chancellor to the Duke of Newcastle

[N. 8, f. 194.]

POWIS HOUSE, April 3rd, 1740, past ten at night.

MY DEAR LORD,

Tho' I am so much indisposed and fatigued as to be scarce able to hold up my head, yet I cannot excuse myself from making my apology to you, in whose opinion, of all men in the world, I desire to stand right. It is a little hard to be suspected of a disinclination to meet one's friends when I firmly believe I have come to more nightly meetings than any man in the busy, laborious station in which I am placed, without any assistance, ever did. I was so right in my guess as to the late sitting of the House, that I assure you I did not get home till full half an hour after eight o'clock, and what time there would then have been for my attending your consultation, I leave to your own judgment. At the same time, I fear that my

¹ A general fast had been ordered for this day. *Gent. Mag.* x. 34.

indisposition and lowness of spirits might make me express myself in a manner not proper towards a person, to whom I owe so much and for whom I have so perfect and so sincere a respect, and permit me to say, affection, as your Grace. But this I must rely upon your experienc'd goodness to me to forgive. I have appointed my surgeon to come and bleed me to-morrow morning, and intend soon afterwards to set out for Carshalton, where I hope absolute quiet and recess will restore me....

Pardon, my dearest Lord, my infirmities, and believe me to be most affectionately and invariably,

Ever your's

HARDWICKE¹.

Lord Chancclor to Lord Glenorchy²

[H. 102, f. 1.]

POWIS HOUSE, May 22nd, 1740.

MY LORD,

[After compliments upon the new relationship between them.] The Duke of Kent, finding himself daily grow worse and worse and likely to continue but a very short time³, express'd the most earnest desire to have the marriage solemnized forthwith as a matter on which he laid much weight, and the completion whereof would give ease to his mind. Your Lordship, having with great goodness to me and my family already so fully declar'd your satisfaction in it, no difficulty remain'd but the impossibility of the nuptials being grac'd with your presence. This was an objection which nothing should have surmounted but the apparent danger of the Duke's death. For which reason only, the articles were executed by such of the parties as were in town and are perfectly agreeable to what, I am inform'd, has been before fully explain'd, to your Lordship, and on the foundation whereof we discoursed when I had last the honour of seeing you. Your Lordship is made a party to them, and a copy will be sent you.

The young couple [were] married, by the Duke's express order, this day at noon, in His Grace's presence, at his lodgings at Brompton, the Bishop of Oxford⁴ performing the ceremony. I am extremely sorry for the want of your Lordship's company, which

¹ Also f. 195 and H. 58, f. 187.

² Afterwards third Earl of Breadalbane; father of Jemima, Marchioness Grey, wife of Philip Yorke, p. 209.

³ He died on June 5.

⁴ Thomas Secker (1693–1768), afterwards in 1758, through Lord Hardwicke's influence Archbishop of Canterbury.

is to be attributed merely to the necessity of the case. Permit me to assure you with the greatest truth that nothing shall be wanting, which may depend upon me, to make this marriage happy, and to promote the real interest and welfare of the Lady and your Lordship's family; and if in anything I can contribute to your particular satisfaction and accommodation, your Lordship may rely on my most ready and sincere endeavours for that purpose.

My son begs to be permitted to pay his duty by this post, and my wife joins with me in our most respectful compliments to your Lordship and my Lady Glenorchy.

I am, etc.

HARDWICKE.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 274.]*

NEWCASTLE HOUSE, [n. d.]
Wednesday evening.

MY DEAR LORD,

I was desirous of waiting upon you this evening to have talked to you upon what you let drop to me yesterday when the Regency broke up, and of which I have had since a hint from another hand. I perceive it is thought by some, that I take too much upon me, and spend the time of the Regency by unnecessary discourse. I don't know that I do more of that, than my office necessarily obliges me to. I am almost sure, I do not do it more than has been always practised by my predecessors. Sir Robert Walpole was made Secretary of State during the King's absence, purely because that office was essential to the carrying on business, and I believe in Mr Craggs' time¹, all business arose from him; and your Lordship will find when that is otherwise, you will have no business come before the Regency but common occurrences and matters of form, for no other comes within the cognisance of the Secretary of the Lords Justices.

But when I have said this, I am determin'd not to offend, and to be a spectator till I am called upon by the Lords to be otherwise. It is a misfortune that, except myself, there are few Lords that have been in former regencies, and these either not mindful of what passed there or unwilling to remember upon this occasion.

There seemed to be some uneasiness at my sitting at the end of the table. I must beg leave to continue that, for as I must carry on some correspondence with my Lord Harrington and the Foreign Ministers, I desire to be where I can best take notes for my own guidance and justification. As to yourself, I can most

* 1739 or 1740 : placed infra August 28th, 1740. II.

¹ James Craggs (1686-1721), Secretary of State, 1718, and implicated in the South Sea scandals.

sincerely say that so far from encroaching upon, or lessening the weight and authority of your situation, there is not, I believe, a man that knows me in the world, that does not also know, I have no wish in public affairs equal to that, of seeing your Lordship in that station and situation where everybody, as well as myself, may acknowledge the superiority and precedence¹. If Sir Robert Walpole or some of you at the upper end of the table don't to-morrow set things agoing, I am afraid we shall stand still; for I am determined to act a prudent and a silent part, except where my duty obliges me to the contrary.

I am, My dear Lord, Ever yours,

HOLLES NEWCASTLE.

[Several letters² refer to the division of the Spanish war prizes between the navy and the merchants, which had occasioned disputes, and concerning which the Duke had published a declaration, now overruled by Sir Robert.]

Lord Chancellor to the Duke of Newcastle

[N. 8, f. 326.]

POWIS HOUSE, Jan. 8th, 1740, at night.

MY DEAR LORD,

The death of the Duke of Kent, which happen'd on Thursday night, has at once brought upon me so much private business as, added to the business of the Town, has unavoidably hindered me....

Your Grace says in your first letter that *the dispute about the disposition of the prizes grew to a great height*. Your indulgence to me will forgive me for saying that, in a Regency constituted as we are, all possible temper should be exerted and every means used to avoid any difference of opinion being carried to a *height of dispute*, and with warmth, publicly at that Board. It cannot possibly do any good to the progress of business but may greatly interrupt it, create ill-humour in other things and be attended with the worst consequences. It will publish our private dissensions to those who may be desirous of taking advantage of them, and what representations may be made of them to Hanover

¹ From this sentence it would appear that this letter belongs to the period when Lord H., while a member of the Regency, was Lord Chief Justice. As Lord Chancellor, no one had precedence over him except the Archbishop of Canterbury. The exact date, however, is not very material.

² H. 58, ff. 189, 201, 203.

may be easier guess'd than known. It is my firm opinion that, more especially whilst the King is abroad (who when here was a kind of centre of unity, at least his final opinion concluded everybody else[? s]), the utmost endeavours should be used to preserve harmony and good agreement. This general proposition inclines me to think that every point, wherein we are likely to differ, and which is not necessary to be determin'd *at present*, should be studiously avoided being brought on the carpet. At least, sure I am, that such points should be avoided, which we have not authority to determine. Now I take the proportion in which the captures ought to be divided and disposed to be one of those....

Consider then, my dear Lord, what must be the consequences, if this point should now be brought on again. We must previously transmit our opinion and advice to the King and desire his orders upon it. Those, who shall differ in opinion from the majority, will undoubtedly (privately at least) transmit theirs with their reasons—attended probably with complaints of others; and thus we shall be drawn into complaints, justifications and incriminations, instead of concurring to carry on the public business. What a figure shall we make at Hanover? What a figure shall we make here?—and how will the Government be carried on under such a Regency? The ill-humour arising from hence will mix with other *national* points—perhaps the expedition, and the instructions for it, which are now to be settled. I own I think these consequences of vastly more importance, not only to the administration but to the public in general, than the declaring a few months sooner or later the particular proportion, in which the prizes taken before the declaration of war shall be divided. A sufficient general declaration has already been made to Vernon's and Haddock's squadrons, which are principally concerned. The sailors will soon see an advertisement published fixing the time for the sale of the effects on board the *St Joseph*, by which it will appear that things are going on in their proper course; and all people of common sense who have also common candour, must know and own too that such prizes cannot be turned into money in a short time.

It is therefore my poor judgment upon the whole that this question should rest in quiet till the King's return, as being much the lesser evil.

I am now at the end of my paper, and have only room to assure your Grace that everything that I have said proceeds from the most sincere and affectionate regard to you. I have no interest

or concern but in conjunction with you : and there I stand, being unfeignedly and unalterably,

My dearest Lord, entirely your's,

HARDWICKE.

[H. 238, f. 241.]

[On June 16, 1740, the elder Horace Walpole writes to congratulate the Chancellor on his son's marriage, and continues :] [

I find that the Duke of Newcastle's unaccountable behaviour towards Sir Robert Walpole must unavoidably transfer the great weight and business that lies upon him to some other person sooner than the present difficult times, the absence of his Majesty and the approaching choice of a new Parliament can well make advisable ; and indeed I was in hopes, notwithstanding the knowledge I have of his Grace's humours, that these considerations would have induced him to save appearances for one year at least. But I beg your Lordship's pardon for sullying the joyful occasion of this letter with such melancholy reflections....

Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 5.]

[n. d.]

MY DEAR LORD,

I can't sufficiently express the sense I have of your great goodness to my brother, his friends and family ; you have given ease to my mind, and by your successful negotiation, I hope procured what I almost despaired of, a mutual inclination in both parties to live together in friendship and confidence for the future. I saw my brother and Sir Robert together yesterday morning, and by their looks and behaviour, one would have thought, there had never been any coldness between them. Horace [Walpole] I had some discourse with alone, who took the force of everything your Lordship said to him, and I think agrees with you in almost every point ; he promises, and I believe him, to act upon the plan your Lordship laid down, and answers very confidently for his brother. I hope we shall be able to keep our friend from taking unnecessary exceptions also ; and if so, I am not sure, but this dangerous experiment may have produced some good with regard to futurity. I have not yet seen Sir Robert alone, but will endeavour to do it to-morrow or Sunday morning at New Park. I cannot flatter myself that anything I shall say, can give force to what your Lordship has with so much truth and affection said already ; but you may be assured I will follow your steps, and only confirm, as far as in me lies, what you have promised, and what you desired. I can't finish this letter, without repeating my most sincere and

hearty thanks to your Lordship, and hoping that you believe there is no one that can have a greater honour, esteem, and if I may say so, friendship for your Lordship than

Your most obedient and oblig'd humble servant,

H. PELHAM*.

Duchess of Marlborough to Lady Hardwicke

[H. 505, f. 14.]

MARLBOROUGH HOUSE, July the 18th, 1740.

MADAM,

As you have been so good as to do me the favour of coming to see me, I should be glad if you would give me leave to wait upon you any evening that is most convenient to your Ladiship before you go out of town. All days will be alike to me. It will be so long, I reckon, before you settle in London after Michaelmas, that I am desirous to take my leave of you once, which 'tis not improbable may be the last¹. The enclosed verses I send you, thinking they may make you laugh. They were made by an old soldier, who was aid de camp to the Duke of Marlborough, and having had no employment for several years he has turn'd poet and has sent me these verses upon my saying I did not love fine musick and thought nothing so pretty as Ballads.

This goes to the tune of To you fair Ladys, &c. I am with the greatest inclination and value imaginable...

S. MARLBOROUGH.

Pray send me word when I shall apoint².

Duchess of Marlborough to Lady Hardwicke

[H. 505, f. 16.]

MARLBOROUGH HOUSE, July 22nd, 1740.

MADAM,

I give you many thanks for your most agreeable letter and hope you will oblige me yet further, which is to name the time that will be most convenient to you for me to wait on you at Powis House....My law-affairs being pretty near over, I am now employing myself to make beds for the Duchess of Manchester's new house³, and I think myself the best upholsterer in England. You may do what you please with the old soldier's verses; for I have got them by heart and after my fashion can sing the Ballad,

* N.B. This is one of the most *cordial* letters from Mr P, in the collection; it is a pity neither the date nor the occasion can be made out. It must relate to some quarrel between the Duke of Newcastle and Sir Robert Walpole. II.

¹ She survived till 1744.

² Also f. 10.

³ Isabella, daughter of the second Duke of Montagu, by Mary, daughter of the Duke of Marlborough.

Don't trouble yourself to give any answer to this, but only let me have your commands any morning that you find yourself at liberty for me to attend you in the evening, who am very sincerely, Madam...

S. MARLBOROUGH.

[N. 9, f. 189. H. 58, f. 209.]

[On July 19th, 1740, the Chancellor wrote to his old friend, the Duke of Somerset, at the desire of the Duke of Newcastle, to engage his interest in returning Henry Pelham and James Butler to Parliament for Sussex.]

Duke of Somerset to the Lord Chancellor

[H. 238, f. 263.]

PETTWORTH, July the 24th, 1740.

MY LORD,

Your Lordp. is very just and right to esteem mee in the numbers of your particular ffriends and humble servants becaus it is a solide truth that I am and that I shall always continue soe to bee. I am very sorry that now in my private and retired part of life and by fformer engagements, I can not I can not (*sic*) obey every article of your comands, for as my principles hath their ffoundations established on the fundamentall principles of the true old Whiggs in fformer times when the libertys and the propertys of the People were their chiefest care and consideration much more in those days than it seemeth now to bee by the present Whiggs in this generation, for most of the modern actions are not consistent with those old principles. But as your Lordp. is very justly admired, you are naturally guided by honour and justice, I can not doe better than to follow soe bright an example. Therfore I shall observe to dispose of my interest at the ensuing generall elections accordingly. I have assured the Duke of Newcastle that Mr Pelham shall have my first care to bee one of our representatives for this county but I can not allow Mr Butler to bee the other if I can prevent it. The reasons I have mentioned in my letter to His Grace. Mr Butler ought now to give way to more ancient ffamilys in our county to take their turn. I was at the last generall election for Mr Pelham and for Sr Cecill Bishop, my kind and obliging near neighbour, [so] that if hee doth stand again for the county, sure I am, that honour and justice will call on mee to support and assist him for the disappointmt hee met with at the last generall election. For these reasons I can not bee for Mr Butler. If your Lordp. can prevayl with the Duke of Newcastle to doe as I hear are at this time transacting in other Countys etc. to compromise matters of the like nature it might bee of very great service to His Grace and save him some thousand pounds and alsoe by it make himselfe much more popular in the county than the money the Duke of Newcastle expended at the last generall election, least some of the freeholders in his interest should require

the like or more in case this election is disputable, unless it bee compromised. I should think myselfe very happy if the Duke of Newcastle would think it worthy his consideration. I shall not say any more on this subject, but leave it with your Lordp¹. I am with the most sincere respect,

Your Lordp's most ffaithfull obedient

humble servant,

SOMERSET.

I intend to bee in London the first week in August, when I will endeavour to doe myselfe the honour to waite on your Lordsp². [On June 9th, 1740 (H. 238, f. 237) the Duke had written.] The severall markes which I have received of your particular ffriendship hathe always been in the highest esteem by mee, it hathe endeused mee to bee ffirme and constant not to bee changed untill my great change in dissolution dothe come.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 219.]

CLAREMONT, July 27th, 1740.

MY DEAR LORD,

On Friday, in the evening, the messenger arrived from Hanover with the inclosed letters from Lord Harrington...It opens a very melancholy scene which, I must own, I always fore-saw; that the advantages to be gained to the King by this alliance [with Prussia]³ were purely electoral; so that this country is to go into a war with France to procure great acquisitions for the King of Prussia and as great ones for the Elector of Hanover. And what is still worse, the more extravagant the King of Prussia's demands are, the better they will be liked, since the greater advantages will be to be obtained in return. I beg, my dear Lord, you would most seriously consider this great question. We have now all the lights that we can have for the present, and I think the orders are so express that we cannot avoid sending some answer by next Tuesday's messenger, and in order thereto I must desire that your Lordship and my Lord President [Lord Wilmington] would meet at my office to-morrow evening between seven and eight...I must beg that your Lordship and I may meet alone and agree what we shall do before we see the President and for that purpose I have spoken to the Duke of Grafton, who desires that your Lordship would dine at his house to-morrow...I shall trouble you no further at present but to acquaint you that I altered my letter to Lord Harrington on Friday according to your kind advice.

¹ Henry Pelham and James Butler were both elected, May 1741.

² For other characteristic letters from the Duke, see H. 238, ff. 15, 360, and an answer, f. 259.

³ See pp. 203, 245 n.

and upon consideration, entirely omitted desiring to know the King's sentiments¹, which I am now extremely glad that I did...

Ever most affecately & sincerely yours,

HOLLES NEWCASTLE.

Earl of Oxford² to the Lord Chancellor

[H. 238, f. 270.]

DOVER STREET, July 30th, 1740.

[Writes to offer the Chancellor certain fixtures at Wimpole.] And now, my Lord, as a true lover of my Country and from an honest heart, give me leave to pour out my most ardent wishes for your long life and health to discharge the duty of that important post you are so happily for this nation placed in, and do so greatly fill. A subject of this kind I could say much upon, but I must consider to whom I am writing, and will only say that I am with true respect and great esteem, My Lord,

Your Lordship's most obedient and most

humble servant,

OXFORD.

Lord Chancellor to the Earl of Oxford

[H. 238, f. 272.]

[n. d.]

MY LORD,

I want words to express the deep and grateful sense I have of the honour which your Lordship has done me...

I am too sensible how unmerited all this goodness is....As to the generous present which your Lordship is pleased to make me, I am sensible how little pretence I have to accept it; and yet I know not how to decline such a mark of that good harmony with which this whole affair has been carried on between us. Permit me to return you my sincere thanks and most ardently to wish present health and lasting prosperity to your Lordship and your noble family.

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 221.]

CLAREMONT, August 9th, 1740.

MY DEAR LORD,

Tho' I was sorry I should not have your company and assistance for three weeks, I take too much pleasure in your ease

¹ N. 9, f. 298. Lord H. thought that this might oblige the ministers to give theirs.

² Edward Harley, second Earl of Oxford (1689-1741); see p. 206.

and refreshment not to be really glad that you had an opportunity of having some relief from that incessant fatigue which almost always attends you, and nothing but absolute necessity should even make me give you the trouble of this letter, which is to acquaint [you] with what has come in, since I saw you, and to wish, if possible, that you would put off your journey till after the Regency on Tuesday, when some things of very great consequence must be determined, and that we may [have] your assistance at our little Cabinet at Sir Robert's on Monday evening.

Yesterday a messenger arrived from Hanover with an account that the King of Prussia¹ was far from satisfied with Lord Harrington's answer to Truches's² Memorial, which he seems to think was only answering him with a view to detach him from France, with whom he had no reason to be dissatisfied, and insisting as (*a sine qua non*) to know positively, what he would do for him in Juliers and Bergs (only), and insinuating that he could not come to Hanover or have any interview with the King, till he knew the King's intentions upon this point. Lord Harrington has made a very proper answer, sending the ball back, and that 'till he—the King of Prussia—explains himself further, the King cannot talk or say anything with more precision³....

Secondly, the King not only gives us leave to send one regiment more to Sir J. Norris, but even two if we think proper....

Sir Robert Walpole agrees to it, but we shall want your assistance finally to settle it, and the more that I have received by express from Torbay the most extraordinary letter from Sir J. Norris that was ever wrote [pointing out the difficulties in an attack upon the enemy's ships at St Sebastian]. Sure, my dear Lord, this alone is sufficient to delay your journey only one day and a half. I beg no more, I am ashamed to ask, but I cannot resist necessity. There is just come in a letter from Commodore Anson⁴, with an account that fourscore of his invalids have deserted, and as many more unfit for service....

This is another considerable incident in which something must be done....

101* has brought me copies of the proposed treaties of Alliance

¹ An attempt was made to effect an alliance with Frederick and to detach him from the French by concessions in Julich and Berg. It failed, largely owing to King George's demands for equal concessions to himself, and was put an end to by the Hanoverian Neutrality next year. The policy of the alliance was revived under better auspices and with better success in later years.

² General Friedrich Truchsess, Graf von Waldburg, Prussian Ambassador at Hanover, later in London.

³ See further on this subject, ff. 211, 225; N. 9, ff. 288, 302.

⁴ George, afterwards Lord, Anson (1697–1762), now about to start on his famous voyage round the world.

* By 101 is meant Bussy, then the French Minister here, who had been, from 1735 on, our Intelligencer and in our pay: he continued this game till the breaking out of the War and renewed it afterwards. He dropped his correspondence upon the Dunkirk Question in 1744 and would never resume it. He got large sums from the late King. II. (II. 59,

betwixt France and Spain with the few points still remaining in dispute; but what is most material he tells me we may be sure that private orders are sent (indirectement) to all the French governors etc. in the West Indies to *succour* the Spaniards there¹. This I think very probable and will make it the more necessary to keep, or make Vernon strong. This is a point also I could wish to have settled before you go.

Instructions must be prepared for him and Bland², who is to command the Land Forces. Upon the whole, my dear Lord, I have stated to you the circumstances we are in. I hope I have shewed the necessity of your putting off your journey for two days, which you may take out at the end of your time. I can only add, you will infinitely oblige me by it, who am ever and unalterably yours,

HOLLES NEWCASTLE.

Lord Chancellor to the Duke of Newcastle

[N. 9, f. 440.]

POWIS HOUSE, Aug. 10th, 1740.

MY DEAR LORD,

I return your Grace my humble thanks for the many kind and obliging expressions in your letter...and I heartily wish that I could obey your commands by staying in town two days longer, were it only to comply with your inclination, which is always doing a very agreeable thing to myself. But having absolutely fixed everything for going early to-morrow morning, it is impossible for me to put off my journey and I beg, my dear Lord, you would a little consider the absolute necessity there is for me to have such a recess which, if I do not take now or lose any part of it, I am sure, as things now are, I shall not regain this season. I am indeed so fatigued and worn down with the incessant attendance of these Seals that I find it will be utterly impossible for me to go on in my business without it³. At the same time, if I saw that the King's service or the real service of your Grace requir'd my stay, there is nothing I would not sacrifice to either of them. But with great submission, that doth not appear to be the case upon any of the points mentioned in your letter.

f. 245.) [Also N. 117, ff. 141 sqq. Bussy was afterwards the agent in the abortive peace negotiations between France and England in 1761. See further, chap. xxx.]

¹ See ff. 233, 235.

² Col. Humphrey Bland (c. 1686-1763), had served under Marlborough and in Spain; author of the *Treatise on Discipline*; Quarter-Master-General at head-quarters 1742; afterwards served in Flanders and Scotland; Governor of Gibraltar and of Edinburgh.

³ Writing to the Duke, on July 25, he says: "I have just stept out of Court in the middle of [a] cause to read over your papers [Lord Harrington's proposals for the Prussian Alliance] and have had barely time to do that." (N. 9, f. 298.)

[He discusses these details and proceeds] I have now mentioned everything that I could have presumed to say, if I had been at your meeting to-morrow night, and I earnestly entreat it as a favour from your Grace that you would be so good as not repeat your commands to me to stay, which will be absolutely inconvenient and uneasy to me. Indeed, my dear Lord, there is no manner of occasion for it; and if one was to be prevented by every incident that can arise, there would be no period of time at which one should be able to get away.

I heartily wish you a good journey to Lewes, and great triumph to your Grace and Mr Pelham in everything.

I am ever and unalterably,...

HARDWICKE.

[H. 58, f. 229.]

[On August 28, 1740, the Duke informs the Chancellor that the accounts of the naval movements were worse and worse. Norris had been driven back to Torbay by the winds. Lord Cathcart¹ at St Helens sends a long dissertation to prove an attempt upon the Havana impossible; it was very doubtful when his squadron would leave. In the W. Indies it appeared that the enemy's strength would be superior, and everywhere things looked awkward. The Dutch had at last agreed to the augmentation of their forces². He continues:—]

I found everybody upon my return in good temper and shall do nothing on my part to make it otherwise. Give me leave to thank you very particularly for your kind inclination to be in town when I should be there. I can very truly say, I am never easy in my public capacity without your advice and assistance. I really interest myself as much in your ease and relaxation as you can do yourself, and therefore, while I always want you and during the stay of our squadrons things arise every day that require new orders, and we often meet with difficulties, having many navies to provide for and not force sufficient for them all, I say, notwithstanding all this, as you seem to wish it, I freely consent (if you will forgive that expression) that you should stay one week longer at Wimpole, and Sir Robert Walpole desires by all means that you would do so....

Lord Chancellor to the Duke of Newcastle

[N. 9, f. 536.]

August 30th, 1740.

...It gives me great pleasure to hear that your Grace on your return found everybody in so good temper. The untoward

¹ Charles, eighth Baron Cathcart (1686-1740), Commander-in-Chief of the forces sent to America against Spain, but died on the voyage, December 20; Lord of the Bedchamber and representative peer for Scotland.

² Further N. 10, ff. 34, 56.

circumstances of public affairs, arising from accidents, makes it the more necessary to preserve with great attention concert and harmony amongst ourselves: and to guard against the concern, which may arise from thence, operating to ruffle or sharpen the mind....

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 237.]

NEWCASTLE HOUSE, Oct. 1st, 1740.

MY DEAR LORD,

Tho' I always feel your absence, I scarce ever was so sensible of it, as yesterday at the Regency. An accident has happen'd to the *Grafton*, a clean, sheathed, 70 gun ship which disables her from going to the W. Indies, but may soon be repaired for the home service. Sir Ch. Wager proposed to send the *Salisbury*, a 50 gun ship in her room. Sir Robert Walpole upon that peevishly and with an air of discontent said,—“What, may not one poor ship be left at home? Must every accident be repaired for the W. Indies, and none be considered that relates to what will be left here.”—I replied shortly that I thought there was no reason to lessen the number of Sir Chaloner Ogle's Squadron¹. Upon which Sir Robert Walpole made a formal speech of 20 minutes, with much emotion to the following effect, that the news of the French squadrons going both to the West Indies, struck him at first, perhaps too much; that he thought we ought always to alter our measures according to those of our enemies; that he was now plainly of opinion, that the Toulon Squadron was not gone (which he could support by no other argument but that he had not heard that they had actually passed the Straits); that the whole, in his opinion, was a feint in France, to give out that they had sent two squadrons to the W. Indies when they had kept one back, viz. that of Toulon, perhaps to come to Brest & annoy us here, perhaps to stay in the Mediterranean, but certainly to have a large fleet in the spring; that we were sending everything to the W. Indies; every ship was to be replaced there, but *he* opposed nothing, gave into everything, was said to do everything, was to answer for everything, —“and yet, God knows, *I dare not do what I think right*. I am of opinion for leaving four more ships of Sir Ch. Ogle's Squadron behind,”—supporting this opinion in the strongest manner but always concluding,—“*I dare not, I will not, have any alteration*.”—In this reasoning he was seconded by my Lord Privy Seal [Lord Hervey], with a strict adherence to everything Sir Robert said. The Archbishop² was for reconsidering it another day. Sir Robert would not suffer it.—*Let them all go, etc.*—I thought myself obliged to give my reasons for not altering measures unanimously agreed to

¹ Sir Chaloner Ogle (c. 1681-1750), joined Vernon with a naval reinforcement and after the attack on Cartagena succeeded him in command, p. 196.

² John Potter, Archbishop of Canterbury 1737 till his death, 1747; a member of the larger Cabinet *ex officio* and one of the Board of Regency.

by the whole Council, without any new reason assigned ; that the circumstances that had happened since rather confirmed than otherwise the opinion that both squadrons were gone to the W. Indies ; that it was the language of every court in Europe and particularly (as you will see in Mr Robinson's)¹ that the Court of France had declared to the King of Sardinia, that the squadrons from Toulon and Brest were gone to America² ; that it was very right to keep four ships at home (which we had done), upon the four ships returning to Brest, tho' in fact there were within one as many as we would allow them at first to be ; that the first orders of the Regency were for 33 ships to go, that we had taken five from them, for with the *Salisbury* there were but 28 ; that a 70 gun ship, the *Grafton*, was a greater force at home than the *Salisbury*, 50 guns, sent in her room ; that I was sorry to differ ; thought, however, there was no reason for altering measures, unanimously agreed, transmitted to the King, instructions formed upon them and actually sent away to your Commanders etc. Sir Robert replied, did not keep his temper, would not suffer any diminution of the number and yet declared as strongly as possible against the measure, entering his protest against what he himself proposed, advised and now would not, *dared not* alter, and so the Regency broke up. I have been too long already upon this subject. I have related the fact and shall only observe upon it, what circumstances is this Kingdom in ? What condition are we of the Council in ? When the first minister shall arraign all the measures and declare he will not, he dare not, have them altered, and that declaration made not to private friends but unnecessarily, uncalled for, at a public meeting of the Regents of the Kingdom, who are not to advise the King but have the executive power lodged by his Majesty in them ?...I don't wish or deserve you should stir from Wimpole sooner than you intended.

I am ever most unalterably yours,

HOLLES NEWCASTLE*.

Lord Chancellor to the Duke of Newcastle

[N. 10, f. 184.]

WIMPOLE, October 2nd, 1740.

MY DEAR LORD,

I receiv'd the honour of your Grace's letter with the several pacquets....

I cannot help being concern'd at the account you give me of what pass'd on Tuesday at the Regency, tho' I have seen some

¹ Thomas Robinson, Ambassador at Vienna.

² In fact they had gone, f. 241 ; see Duke of Chandos to H., H. 238, f. 294.

* This is a remarkable letter. Sir R. W. was certainly in the wrong and the D. of N. as much in the right; but alas, the great force we sent then to the W. Indies, as now of late to America, was completely unsuccessful, and yet both sufficient in the opinion of good judges to have done the business. H. 1782.

instances of the same kind before. This conduct seems to proceed from great embarrass and anxiety of mind; doubtfulness of the event and of the rightness of the measures; having no clear fix'd plan; and from a willingness to throw out things that may hereafter be quoted and made use of as future accidents may turn out. Add to this, that our friend's humour on these points differs from day to day, as other incidents arise agreeable or disagreeable to him; for one thing mixes with and infects another. What your Grace mentions in your letter to have fallen from yourself on this occasion seems to me extremely proper, and I dare be confident it was said with that temper which all of us ought to be particularly attentive to in such difficult circumstances. Difference of opinion in such a doubtful state of affairs may be impossible to be avoided amongst the best friends. The great point is to avoid its sharpening the mind or running into asperity of speech or wrangling instead of deliberating.

[He had himself been in doubt whether the French fleets had sailed for the W. Indies.] Not that I think this will make any material difference; and surely it was right not to alter the measure. The wind is fair, why don't Ogle sail? And why don't our master take advantage of it? [to return to England].

[H. 58, f. 253.]

[The Duke writes, October 3, 1740:] Believe me, my dear Lord, we shall not be too strong in the W. Indies, and the event will shew I am in the right. You ask me why does not Sir Cha. Ogle sail? I answer because he is not ready. If you ask another question, Why is he not ready? To that I cannot answer. [The King was to set out from Hanover next Tuesday. Representations had been made to the King of France on the subject of the fortifications at Dunkirk, contrary to the treaties.]

Duke of Newcastle to the Lord Chancellor

[H. 58, f. 270.]

NEWCASTLE HOUSE, Oct. 25th, 1740.

MY DEAR LORD,

I am sorry to be always troubling you upon disagreeable subjects, but to whom can one have recourse but to those upon whose friendship and judgment one has the greatest dependance. [He had had a pleasant interview with the King who had been in a good humour and had consented to letters being written to the Czarina, the King of Prussia and Vienna to secure their support.] I found by Sir Robert and Lord Harrington that after we went they had agreed not to write to Vienna till their courier arrived....

his Majesty afterwards in a formal set speech or declaration, but not in ill-humour, said to my Lord Harrington and I: "As to the business in Parliament, I don't value the Opposition, if all those in my service act together and are united; but if they thwart one another and create difficulties in the carrying on the public business, then indeed—or to that purpose—it would be another case." I easily saw from whom this came. (Sir Robert had been in the Closet near an hour and came out in high spirits and humour.) I answered his Majesty that to be sure all his servants would unite in doing him the best service they could. I found Sir Robert in the outward room and after mentioning to him in the presence of Lord Harrington that the King was quite altered from the day before as to writing to Vienna and Berlin, I told him his Majesty had made a pretty extraordinary speech to us and I then repeated it, saying, "I have heard this language often before." He replied, "I know you mean from me," and indeed I did, for I can almost swear to the words. "However" (says Sir Robert) "agreeable it may be to my own way of thinking, and true in itself"—and then muttered something—"I have said nothing to the King (*or*) nothing *now* to that purpose." (It might have been the day before when he acquainted the King with our difference in Council.) I said then to him, Lord Harrington present, "When measures are agreed amongst us, it is very right that everybody should support them, but not to have the liberty of giving one's opinion before they are agreed, is very wrong." He said shortly, "What do you mean. This war is yours, you have had the conduct of it, I wish you joy of it." I contented myself with denying that fact and so we parted. Now, my dear Lord, how can business go on this way? What is agreed amongst us is often equally overhauled afterwards, both by Lord Harrington and Sir Robert, if it is not quite agreeable to their own inclinations. And when we have reason to fear that our united credit with the King may hardly be sufficient to induce his Majesty to do quite right in this great conjuncture, *one* will govern all and fill the King's head with complaints and unreasonable jealousies of part of his servants; I don't think I was the single man meant.

I hope you will reflect on this and say to *me* & to *others* what you think we should do. I will, I promise you, comply with what you shall advise....

I am ever and unalterably yours,

HOLLES NEWCASTLE.

[II. 238, f. 302.]

[On October 10, 1740, Horace Walpole, the elder, describes to the Chancellor the state of negotiations abroad. The preparations of France, without any doubt, obliged the Dutch by former treaties to assist England; but no such assistance was to be expected, owing to their fear of France. The most they would do was to join a powerful European alliance already formed. The

same was the case with Austria, who preferred hostilities in Italy rather than annoying France in Flanders and on the Rhine, as England desired. No one would be the first to draw upon his head the vengeance of France. It was desirable to gain over the King of Sardinia, but apparently insuperable obstacles existed to the satisfaction of his ambitions in Italy. Then there was the lack of funds and, in short, the prospect was a melancholy one.

Hon. Philip Yorke to the "Club"¹ at Cambridge

[H. 285, f. 7.]

Feb. 16th, 1741.

Account of the debate on the motion against Sir Robert [on Feb. 13th]²....

Second question [i.e. that any attempt to inflict a punishment on any person unheard is contrary to natural justice] moved by the Duke of Marlborough, seconded by Lord Lovel and Duke of Devonshire. Lord Talbot³ blusters and is extremely vehement throwing out bitter reflections upon the place men, for which being call'd to order, he desisted with a flourishing oath, *by the eternal God*⁴....The protest reported to have been sent over from France by Lord Bolingbroke⁵. Lord Oxford voted with the majority in the first question; Lord Coventry retired, Lord Chesterfield, tho' forbid by his physicians, came and gave his vote and proxies, with blisters upon him....Neither Mr Pulteney⁶ nor Sir Robert, answered people's expectations; the former's speech drawn up in expectation of Sir Robert's withdrawing....Mr Harley's generosity in speaking against the question⁷—Mr Shipping's⁸ declaration that he would not pull down *Robin* upon republican principles, and did not vote. The House would not have divided but by the eager warmth of

¹ The "Club" was a small Society, consisting of Philip Yorke's younger brothers with other friends at Bene't College, Cambridge, of which the object was the exchange of news and the discussion of topics of interest. ² p. 199.

³ William, second Baron Talbot (1710-82), the unworthy successor of the late Chancellor, a supporter of the Prince of Wales, and made Steward of the Household and Earl, 1761; a noted pugilist, and notorious for his brawling, dissolute habits. See further, chap. xxxi.

⁴ Omitted in the *Parl. Hist.* xi. 1222.

⁵ I.e. the Protest of the Lords. Lord B. had retired to France in 1735. There appears to be no record of this communication.

⁶ William Pulteney (1684-1764), ally of Walpole till 1725, when he was dismissed from his post of Cofferer of the Household and became a personal antagonist of the minister, and with Bolingbroke led the violent attacks upon him; afterwards first Earl of Bath; see further, p. 279.

⁷ Edward Harley, M.P. for Herefordshire, brother of the late Lord Treasurer, succeeded, 1741, as third Earl of Oxford. Walpole had been the most active agent in the impeachment of his brother; Coxe's *Walpole*, i. 655.

⁸ William Shippen (1673-1743), M.P. for Newton; leader of the Jacobite squires in the House; called "Honest Shippen," and a man of great ability and integrity; a staunch opponent of Walpole; he, however, on this occasion refused to vote against him and was followed by about 30 Tories. See also p. 98.

Mr Lyttelton¹. Tories in general refuse to join in the measures and either did not divide or voted against the question. Minority expected 219 votes. Sir H. Packington sent for out of the country in violent haste, voted directly against them². A guzzling Baronet kept all night at Sir Robert's house, for fear his faculties should chance to be so diluted as to make him mistake the lobby for the inside of the House of Parliament. His Majesty gave orders to be informed of the event at whatever hour of the night the House rose. The drawing room exceeding full the Sunday after. The King observing to Mr Edgecomb³ that they had a *long* day in the House on Friday, the latter replied,—“Yes, Sir, but a very *good* one.”—His Majesty answered,—“Ay, the scheme was a wicked one, in the first conception of it, and turned out a silly one.”—Afterwards witty on Mr Sandys'[s] 41 Phyz and cravat⁴.

[H. 59, f. 13. See also N. 12, f. 407.]

[On March 25, 1741, the Duke wrote to ask the Chancellor's advice upon a private matter, the proposal of Lord Vane⁵ to unite with the Duke and his brother, to cut off the entail of the family estate.] If this thing can be done justly and honourably, it will make me easy for my own life, and give me the satisfaction of settling my estate upon the only representatives of my own family and who must be in every respect, the dearest to me. If it cannot be done upon that foot, the thought must be totally laid aside, and past errors retrieved in the best way they can. It is to no purpose to dwell upon that, and therefore I shall go to a more agreeable subject by expressing in the sincerest manner, the grateful sense I have of my many obligations to you, and most particularly for your goodness in being so often troubled upon the unhappy subject of my private affairs. I feel more than my best friends know or believe, and what is the worst of all, no misfortunes are so great, as those that one brings upon oneself⁶....

P.S. Pray don't think of writing me an answer.

¹ George, afterwards first Lord Lyttelton (1709-73); M.P. for Okehampton, historian and poet, now with Pitt an adherent of the Prince of Wales and member of the opposition against Walpole; later a valuable supporter of the Whig administration and intimate friend of the Chancellor.

² Sir Herbert Packington, M.P. for Worcestershire.

³ No doubt Richard, afterwards first Lord Edgecumbe (1680-1758).

⁴ Samuel, afterwards first Lord Sandys (c. 1695-1770), M.P. for Worcester, an active opponent of Walpole and now moved address for his removal in the Commons; later a member of the Government and friend of the Chancellor, whom he succeeded as Speaker of the House of Lords for a short interval in 1756. His “long cravat” (41, i.e. 1741, up-to-date), displayed also by Pulteney and his followers, was alluded to contemptuously by Slippen.

⁵ William, second Viscount Vane (1714-1789), cousin of the Duke, the latter's mother and Lord Vane's grandmother having been both sisters of John Holles, Duke of Newcastle; according to Walpole (*Letters*, i. 128) the Duke gave Lord Vane £60,000 to cut off the entail on the Newcastle estates.

⁶ The Duke spent nearly the whole of his estate in polities.

[H. 59, f. 64.]

[Later on, August 8, 1741, the Duke sends the Chancellor his warmest thanks for having brought the matter to a successful issue¹.]

Duke of Newcastle to Lord Chancellor

[H. 59, f. 19.]

WHITEHALL, May 18th, 1741,

MY DEAR LORD,

I have ordered Mr Stone² to send your Lordship a particular account³ of the great news that came last night by Capt. Lawes from Admiral Vernon. We are entirely masters of all the out forts and harbour of Cartagena. Six Spanish men of war and eight galleons are sunk or burnt, and the town of Cartagena cannot, as is thought, hold out. I most sincerely congratulate you upon this great success, so agreeable to our wishes and so answerable to our expectations. If this is well pursued, I mean there, we must soon be masters of all the West Indies. Many things will be to be done here, supplies of all sorts, and perhaps men to be sent from hence. In these circumstances, I am always sorry you are not with us. We will do nothing till you come, but will be preparing by informing ourselves what can be done....

[f. 25.]

[The Duke writes again on May 21. He is not sure that the victory will be properly followed up; Vernon must be written to, otherwise he will certainly think that his work is over and come home. General Wade⁴ is to attend before the Lords Justices with a scheme of raising 12,000 men, which is to be considered previously at Sir Robert's house, for which reason the presence there of the Chancellor is especially desired by Sir Robert and the Duke.]

Lord Chancellor to the Duke of Newcastle

[N. 12, f. 54.]

WIMPOLE, May 23rd, 1741.

MY DEAR LORD,

...I think I could have wish'd with Brigadier Wentworth⁵

¹ Further, p. 264; H. 59, f. 121.

² Andrew Stone (1703-73), brother of the Archbishop of Armagh, M.P. for Hastings, Under-Secretary of State and private secretary and confidant of the D. of N., an able and influential personage; Sub-Governor to the young Prince of Wales 1751. Later, on accession of George III, he deserted the D. of N. and became one of the King's friends.

³ ff. 21 and 23; p. 195.

⁴ George Wade (1673-1748) distinguished himself in the campaign in Spain; constructed roads in the Highlands after the rebellion of 1715; Field-Marshal 1743; of whom hereafter as Commander in the campaign in Flanders 1744-5 and in Scotland

^{1745.}

⁵ p. 196.

that Admiral Vernon had kept back his express till we had been masters of the town and citadel, tho' I hope from the panic and despondency under which the Spaniards seem to be, that will not prove a very difficult work. It was well Bocca Chica was taken, as it was; for notwithstanding the good harmony, dissensions seem'd to be arising between the sea and land officers. Is it usual to insert such recitals in the resolutions of Councils of War? I was surprized not to find any formal resolution of the particular Council instituted by the instructions to consider of and determine the grand enterprize. Is that short general minute of a resolution, taken off Cape Tiberoon [Tiburon in Haiti], after the knowledge of the French fleet's departure, the whole on that subject?

I think it is perfectly right to send no orders till you know the final success as to Cartagena, unless to prevent Vernon's coming home himself. But I fear, whatever may be intended hereafter, you will be too weak for the Havanna, after the numbers which will be lost by sickness....A supply of engineers should be thought of....I will endeavour to be in town time enough on Monday evening to wait on your Grace and Sir Robert Walpole at the time and place appointed if possible: tho' schemes of encampments are far beyond my sphere....I am ever, my dearest Lord...

Yours,

HARDWICKE.

[The Chancellor's forebodings were too surely realised, and the Duke announces a few days afterwards the complete failure of the expedition.]

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 29.]

WHITEHALL, June 19th, 1741.

MY DEAR LORD,

I am thoroughly persuaded that your Lordship will be as much concerned as I am for the occasion of my giving you this trouble....The account, or rather the no account, which Mr Vernon gives (for one can hardly know by his letter whether the town is taken or not; or at least by no means judge from whence the miscarriage came), is to the following effect; that he had by the assistance of some ships that he had posted for that purpose, cover'd the landing of the troops at a place called Texar de Gracias; that for an experiment he had carried the Spanish ship the *Galicia* as near to the town as possible, that he might see what effect it would have to bombard the town from thence; but that

the distance was so great that it could do little or no execution, and this he says he did for satisfying gainsayers. This was the only ship from whence any attempt was made to bombard the town. Mr Vernon sends copies of several papers that pass'd between Brigadier Wentworth and the land officers and himself and the sea officers, which are called resolutions of the respective councils of war, wherein there appears to have been much altercation and great difference of opinion between the land and the sea officers, and pretty severe language and reproaches from the sea to the land officers for their backwardness, delays and want of vigour, till about the 15th or 16th of April, upon a representation from the land officers, it was unanimously resolved at a joint council of war of land and sea officers, to reembark all the troops, and to go back with the whole fleet and army to Jamaica. Mr Vernon says nothing particularly either of the attack or loss, but the account Captain Wimbleton gives is, that Brigadier Wentworth attempted to take Fort St Lazarus by storm after, as the Captain says, he had given them four or five days to entrench themselves; that in this desperate attack we lost six hundred men, and should have lost as many thousands, if there had been so many to attack it; that Colonel Blakeney¹ had given his reason in writing against storming this fort. To this he attributes our miscarriage and to the great sickness that came on a sudden among the troops....

Mr Vernon proposed the going to Panama; but the land officers were unanimously of opinion that the troops had suffer'd so much that they would not be fit for service till they had been a little refresh'd. Mr Vernon intends, upon his arrival at Jamaica, to send home the seven eighty gun ships and all the seventy and sixty gun ships that are crazy and not fit to remain in the West Indies. He hopes to find time to come home himself....

Upon the whole, my dear Lord, it is a very bad business: our Admiral plainly concerned for nothing but what relates to himself and the behaviour of his fleet, which he extols to the highest degree and seems to think they have performed everything that could be expected from them; our general, I am afraid, a good deal at a loss from inexperience what to do, and hurried perhaps at last to make a most desperate attack in which he miscarried. But it is too soon to make a judgment before one hears all sides and knows what has been done and the reasons for it.

I have just received Mr Wentworth's letter which is the most dry and cold account I ever read, but indeed a very melancholy one. He says, in short, that they landed their troops on the 5th April; that he commanded 1,500 men to pass a defile towards Fort St Lazare; that they were opposed by 600 of the enemy who were advantageously posted; that they were forced to lie upon their arms three nights, their tents not having been landed, which, to be sure, was one great occasion of the sickness; that the sickness

¹ William, afterwards Lord Blakeney (1672-1761); Brigadier-General, served under Marlborough; afterwards in 1756 the gallant defender of Minorca.

and rains coming on they were oblig'd to attack the fort, where they had above 600 men killed and wounded; that this defeat so dispirited the troops that he could not get them to advance again; that the army had suffered so much by sickness and death, that it was absolutely impossible to go on with the siege, unless they could be greatly reinforced from the ships, which was not practicable; that therefore they were all of opinion to leave the place and return to Jamaica. He gives a most miserable account of the state of the army, and says in his letter that he has not one thousand men fit for service and almost all his officers either dead or sick. Colonels Moreton¹, Douglas¹ and Grant² dead; Blakeney scarce able to support himself; Wolfe¹ quite exhausted and Winyard¹ sick. Upon the whole it is a most melancholy affair.

[He dwells upon the great inconveniences and ill consequences which must arise from this catastrophe. His own opinion was for immediately sending out strong reinforcements to retrieve the disaster, and Sir Robert at present was of his mind. But great difficulties had to be met and he begs that the Chancellor, without whom he will do nothing, will be at Sir Robert's on Monday evening, if not on Tuesday, in which case till then they would come to no resolution. He encloses a memorandum of troops and losses³.]

Lord Chancellor to the Duke of Newcastle

[N. 12, f. 219.]

WIMPOLE, June 20th, 1741.

MY DEAR LORD,

I never found myself so much affected with any misfortune as that of which your Grace's letter brings me the melancholy account; tho' I own I have had some misgivings upon my mind ever since I read over Vice-Admiral Vernon's and General Wentworth's first letters at this place, which made me avow my wishes to your Grace that Mr Vernon had reserved his messenger of success, till he had seen further into the event; and these apprehensions were increased when I read over the relation given by the two Spanish captains who were brought prisoners hither. It is surprizing that no other attempt should be made to bombard the town but from the single Spanish ship, the *Galicia*, and more so that, when they plainly wanted land forces, the American troops should not be landed. I am at a loss how to reconcile what

¹ Commanding the regiments of marines. The Colonel Wolfe here mentioned is Colonel Edward (1685-1759), Adjutant-General in the expedition, father of James Wolfe.

² Mortally wounded in the attack upon Fort St Lazar. His last words were said to be: "The General ought to hang the guides and the King ought to hang the General." Fortescue, *Hist. Brit. Army*, ii. 71.

³ ff. 33, 35.

Mr Wentworth says of his not having one thousand men fit for service with the amount of what are *remaining fit for service* upon the return. But what surprizes me most of all is that I don't find it said that they demolished Bocca Chica and the other forts and castles, which defend the harbour, in order to do all the mischief they could and leave it open to another attempt. So much of this calamity seems to be owing to the badness of the climate of Cartagena, that it may afford some objection against their having fix'd upon that place for the object of their expedition. Your Grace rightly says that the great point now most seriously to be consider'd is, what is to be done? I am glad to find that you and Sir Robert Walpole agree in opinion that America is not to be given up, and that we must go on with our measures there. This general proposition seems to be absolutely undeniable, for otherwise we must give up our plantations and trade. But how to relieve this disappointment under the difficulties your Grace very properly sums up, is the main subject for consideration. This will require all possible attention, deliberation and prudence; and all possible temper and union too, amidst the chagrin and ill-humour which such ill-successes naturally raise. Tho' I am most sensible of the little weight I am of, especially in such affairs, I will not fail (God willing) to comply with your intimation of being in town on Monday, so as to meet at Sir R. Walpole's about seven that evening; for I would not contribute any the least occasion for Tuesday's passing without some material resolution being taken.

In the meantime I shall remain here full of melancholy and uneasy reflections and yet endeavouring to raise my mind to better hopes of future events. *Ne cede malis, sed contra audentior ito.* I much regret the delays likely to arise from the King's being at such a distance. For God's sake, my dear Lord, keep up your spirits, and believe me ever, and in all circumstances,

Most affectionately and unalterably,

Yours,

HARDWICKE¹.

[The attention of the administration was now called to another difficulty. News arrived of the alliance between Prussia and France against Austria, in consequence of which the King became seriously alarmed for his electoral dominions thus placed between two foes, and desired to declare a neutrality for Hanover². On

¹ See further H. 59, ff. 55, 57 and p. 267.

² p. 203.

July 14, the Chancellor, Lord President, Sir Robert Walpole and the Duke of Newcastle returned answer to Lord Harrington, then with the King at Hanover, that such a neutrality would, notwithstanding the refusal of Austria to make concessions in Silesia and follow the King's advice, be impossible for the King of Great Britain, on account of the treaty of alliance with Vienna, and advised a further attempt to effect a compromise between Austria and Prussia¹.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 43.]

July 19th, 1741.

...I stated and lamented the Hanover influence, which had brought many of these misfortunes upon us, which occasion'd a warm and very unbecoming reply from Sir Robert Walpole....I must therefore most earnestly beg that you will not refuse to meet me at New Park this afternoon before six o'clock, when I will not fail to be there; and I have this morning sent Sir Robert Walpole word that I have sent to you for this purpose. My dear Lord, I know it will be disagreeable, I know it will be hurrying, but I beg that you would comply; for when we have such points and such persons to manage, these incidents cannot be avoided. I send you the letter which went to Hanover last Wednesday, that you may see whether anything can be departed from consistent with the opinion, which we gave upon the most serious consideration. For my own part, I think if we could, and would, advise the electoral neutrality, it would not signify a farthing. The King, if he has a mind to do it and can do it, will do it without us....And I am of the opinion that the most solid advice, both for England and Hanover, would be to renew forthwith with the Court of Vienna in a cordial manner the concert for operations, to endeavour to get Saxony, Russia and the States General into it, and to send the King word that we will send the 12,000 men to his assistance with the utmost expedition.

Adieu till six this evening,

ever yours,

HOLLES NEWCASTLE.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 53.]

CLAREMONT, July 20th, 1741.

MY DEAR LORD,

I must begin with my thanks for the stand you made yesterday which, without a compliment, was in the most becoming manner, and had its effect so far, that the difference of opinion

¹ H. 59, f. 45.

occasion'd no indecent replies, which has not always been the case. There seemed, however, less concern at dissenting and more seeming resolution upon it than usual. But that cannot be helped. Let us go on to do what is right and that will prevail at last¹....

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 66.]

CLAREMONT, Augt. 15th, 1741.

MY DEAR LORD,

...I send you all the letters that are come since you left London. Those that came by the messengers last Saturday and Tuesday will inform you particularly of the motives that induced Mr Robinson to undertake his journey to Silesia and the ill-success that attended it². That which is the most remarkable is the letter that came this day from Hanover³ in answer to that famous one which was made so perfect at Sir Robert Walpole's. My Lord Harrington has not vouchsafed to take any notice of any part of it but what relates to the proposed application to the States General, which, his Lordship says, is directed to be made as agreeably as possible to what the Lords advised, but in fact differs as much as possible, having quite a different tendency. That, proposed from hence, was intended to animate the States to take part with the Queen of Hungary. This, order'd from Hanover, is indirectly to favour a neutrality, provided Hanover can be included in it. In short, my dear Lord, what I have often said, proves too true; all our measures spring from one cause and are calculated for one end, and where that will end, God only knows. Our advice has been constantly asked and never once followed. The Hessians and Danes were to be sent to the Queen of Hungary and be at her disposal. Fresh applications were to be made to Russia, Saxony and the States General. Instead of all this, our troops are to be kept to defend Hanover and our negotiations, to obtain a neutrality for that country....

Sir Robert Walpole took Lord President and me aside last Thursday, desired me to write to your Lordship, "that in all probability these next letters would decide the fate of Europe; that he

¹ See further H. 59, f. 59, dispatch of the Cabinet to the King of July 31, declining all interference and responsibility for measures which the King may adopt for the safety of Hanover.

² Thomas Robinson (1695-1770), Chargé d'affaires at Paris and subsequently Ambassador at Vienna 1730-1748; K.B. 1747; Commissioner of Trade 1748; Master of the Great Wardrobe 1749; Secretary of State and Leader of the House of Commons 1754-5; created Lord Grantham 1761. He was now sent to offer Frederick from Maria Theresa the cession of the Austrian Guelders and Limburg in exchange for the abandonment of his claims to Silesia, proposals which Frederick contemptuously rejected. Robinson to Harrington, August 9, 1741, N.S., *S. P. Dom., Regencies*.

³ Harrington to N., August 9-20, 1741, *S. P. Dom., Regencies*; in reply to that of N. of July 31.

desired I would let you know he would put off his intended journey to Norfolk for a week, if it should be necessary, but begg'd and insisted that you would come to Town for two days only, upon the arrival of these next letters." The President joined most earnestly with Sir Robert Walpole, and said he would not go into the country till the consideration of these letters was over.... Therefore I most earnestly beg of your Lordship that you would be in Town on Tuesday next, by which time our messenger will be come. Two or three days will be all you need stay, and this single avocation, probably, the only one you need make the whole vacation. My dear Lord, the King, your country, and if you will allow this expression, your friends want you and you must come. It is very easy for my Lord Harrington to act and talk agreeably to the King at Hanover; but we must think how we can serve the King in Parliament and defend there what is done elsewhere. At least, I think, in justice to ourselves, we should take care that nothing be wanting on our part that may prevent fatal measures being taken. If after that they are, those must defend them that advise them. Believe me, my dear Lord, it will be a sad story when it shall appear that a regard to Hanover alone has stop't our armies, promoted and countenanced Neutralities and occasioned a universal inaction.

Whilst we are so inactive in Europe, there is some hankering still at delaying our American expedition ; it broke out again last Regency day, was overruled and dropp'd because there would be an opportunity, even when they were at Cork, if it should be thought advisable. [Lord Tyrawley¹ refused to go—somebody else must be thought of, but who should that somebody else be?]...

My dear Lord, forgive this long letter, and these longer pacquets ; yield to the pressing instances of your faithful friend and your other fellow labourers, and let me know by this messenger when we may expect you.

I am ever most affectly yours,

...

HOLLES NEWCASTLE.

Lord Chancellor to the Duke of Newcastle

[N. 12, f. 424.]

WIMPOLE, Aug. 17th, 1741.

MY DEAR LORD,

I receiv'd yesterday the honour of your Grace's letter together with another from Mr Stone and an immense load of pacquets. They found me so much indisposed as not to be very fit for all that attention which their importance required ; but being something better this morning, I have finished the perusal of them and return them by the messenger....

¹ James O'Hara, second Baron Tyrawley (1690-1773) ; served in the campaign in Spain ; ambassador in Portugal and in Russia.

I am very sorry for, but not at all disappointed at, the ill-success of Mr Robinson's journey into Silesia. I always thought what the King of Prussia threw out about Flanders was only tauntingly or (as Podewils said¹) ironically said, and wondered that it was taken so seriously. But, if one may conjecture from some passages in that strange, captious and (not to call it by a harsher name) unprincely conversation with Mr Robinson, it looks as if he had it in his head to raise, from that proposition, some merit to himself and some demerit for others, with the Dutch.

I agree with your Grace as to your way of thinking about the instructions sent to Mr Trevor² to talk to the Dutch ministers and their tendency. In short, the whole proceeds from the same motive and governing spring about which I have already said so much that I can now only *silently lament it*. Indeed, as very little is asked of us, there is no occasion to say much; for I don't find, thro'out all these letters, that our advice is asked or anything left to us, except one point. I mean the preparing and instructing Mr Trevor to present a public memorial to the States against which, at the same time, the King's direct and positive opinion is transmitted.

I am a little surprized that any of our friends in town should imagine that *the next letters should decide the fate of Europe*, or bring anything more material than these....As to the American reinforcement, tho' you may meet with a rub now and then, I think that is gone too far to admit of any material obstacles, unless this of the General should give rise to one. Could not your Grace and the Duke of Montagu prevail with Lord Tyrawley?...But is it not quite new for military men thus to elect their service?

I was much rejoic'd that your Grace's second commands... delivered me from the uneasiness of making difficulties about coming to Town; which, in truth, I should have been forced to do, not being well, and indeed never shall be well, unless I can be allowed to have some part at least of that usual recess, which persons, who have gone thro' the fatigues of my station, have found

¹ Prussian minister for foreign affairs, present at the interview. On being asked whether "the King of Prussia had not seemed to relish the proposal of an equivalent in the Low Countries," he answered that "his Master had made a demand of all the Low Countries as sure of being refused." Frederick himself affected horror at the notion of violating the Barrier Treaty (Robinson to Harrington, August 9, 1741, N.S.).

² Trevor was instructed to demand assistance from Holland, in case of Hanover being attacked. But if a Dutch Neutrality with France were resolved upon, he was to demand the inclusion in it of Hanover. Harrington to Trevor, August 9-20, 1741, *S. P. Dom., Regencies*.

necessary. I was therefore in hopes that, after the humble petition which I made your Grace, I should not have been called upon so soon, especially not in expectation of letters not yet arrived, considering for how many weeks we have often expected letters on material points. Neither (as I said before) do I imagine that these letters can bring anything for our *deliberation or advice* here. But, if they should, forgive me, my dear Lord, for saying that such deliberations may exceeding properly be had by yourself, my Lord President and Sir Robert Walpole. Last summer many meetings, on very considerable points, were held by three of us, some by two only. Believe me, I don't say this to decline any part of the public service, or obeying your commands, whose very inclinations, if discovered, I have always a most sincere zeal to comply with. I hint it only in order to obtain what I find necessary to enable me to go on further in business.

I cannot help thinking that it was right to send for some more ships from America, besides those Mr Vernon had determined to send home. It look'd last year as if the old world was to be fought for in the new, but the tables are turn'd, and I fear that now America must be fought for in Europe. Whatever success we may have in the former, I doubt it will always *finally* follow the fate of the latter; and there affairs appear so entangled and perplexed that they surpass my comprehension.

Mr Perkins¹ has sent me copies of all the papers signed between your Grace, your brother, Lord Vane and Mr Vane, either jointly or separately, together with an account of some doubts suggested by Mr Murray² since the signing³. I met the latter accidentally last week on the road in Bedfordshire, and he then mentioned the same things to me. I only heard him without so much as hinting any opinion; but don't at first sight apprehend there is any great weight in them. I will consider the papers with the utmost attention, and be assured, my dear Lord, that no endeavours or zeal shall be wanting, on my part, to contribute to the perfecting of this great work, so material to you and your family, whose interests I ever consider as my own; and I dare say your Grace finds Mr Perkins thoroughly faithful and assiduous in it.

Permit me to return you my thanks for your pine-apples which

¹ Hutton Perkins, the Chancellor's secretary.

² William Murray, afterwards the famous Earl of Mansfield.

³ Above, p. 254.

are prodigiously good; but to send three at a time was downright extravagance. However, it is of a piece with the rest of your goodness to me, always overflowing.

I am unalterably, with the truest affection,

My dearest Lord, ever yours,

HARDWICKE¹.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 74.]

WHITEHALL, Aug. 19th, 1741.

Private.

MY DEAR LORD,

Whilst Mr Stone is writing an ostensible that you may answer in that manner for my colleague to see, if you think proper, I must take the liberty to trouble you with my own poor private thoughts upon the great subject of Lord Harrington's letters. I must, however, in the first place freely own, I never had so much difficulty in writing to you in my life. I know your unwillingness to come to town, and I am therefore sorry to press you to it. I know the occasion you have for rest, and quiet, and could therefore most heartily wish the public service, the King's own private views, the security and satisfaction of your faithful friends (I mean my own) would admit of it....

Was there ever such a letter² or such a proposal? So inconsistent and so little becoming an English minister. The troops are laid aside....If you would send the troops, why not give the money? The motives and ends are very different. In one part of the letter we are told the King is sending ministers to every enemy of the Queen of Hungary, most probably to negotiate a neutrality, and immediately after money is asked to raise troops in Hanover, take auxiliaries into the Elector's pay for the defence of Hanover pursuant to the vote of Parliament, if attacked on account of supporting the Queen of Hungary, when the support of the Q. of Hungary is neither intended or thought of. And what is still more extraordinary, when the Q. of Hungary is thus dropp't, her Minister here has received orders to demand the quarter's subsidy and is to pay—³. What a secret is he (that minister) trusted with! and you will see by Robinson's letter⁴ that Schwickeldt has a negotiation which the King of Prussia will not conclude without England, and

¹ See further, pp. 362 sqq.

² Harrington to N. August 12-23, *S. P. Dom.*, *Regencies*.

³ Probably the King himself is meant, who was to receive the money for the Hanoverian troops, ostensibly for the aid of the Q. of Hungary.

⁴ R. to Harrington August 16, 1741, N.S., *S. P. For.*, *Germany*. Schwickeldt was George II's Hanoverian minister, now sent to Berlin to obtain from Frederick, in case Hanover were attacked, a promise of aid, or at least of neutrality.

consequently has that also in his power to betray, who will have no scruples, and as we know, has already tried both Carteret and Chesterfield about the late King's will¹. Was ever poor man in such circumstances as our Royal Master? And indeed, my dear Lord, he will be ruined, if we don't fairly and honestly tell him our opinions, and we shall be ruined too. Which brings me to what, in my poor opinion, should be humbly and decently laid before him.... [That the proposal to send troops was contingent upon their employment in the service of Austria; that the King not having so employed them, the whole basis of the support of the Electorate by England was destroyed; that money could not be given without authority of Parliament and finally, that the situation of his Majesty had become so difficult that his ministers humbly hoped that he would return to "these his dominions."]

Something must be said to prevent their going on in this way. As this is a demand of money, I believe we shall find Sir Robert more difficult to comply than upon former occasions. He says, (and I believe it) he has wrote very strongly upon these general considerations with regard to Hanover; but one small negative will have more effect than all his fine and most unanswerable reasonings. You will see some hopes still in the Prussian negotiations, if it is not now too late. But you will see also that the King of Poland² says our King is acquainted with every thing he has done. I will finish upon public affairs with only most earnestly beseeching you not to let anything prevent your coming to London. Indeed, if you will allow me to say so, the great situation you are in, the degree of confidence that is placed jointly by the King in us four makes our duty to him to attend upon these great occasions; and for myself, without your advice, assistance and support, I do not think it is either safe or prudent for me to go on, even this summer. ...I hope I shall hear you are perfectly well and give me leave to conclude with your favourite Horace!

Ne me querelis exanimis tuis,
... mearum
Grande decus columenque rerum³.

Lord Chancellor to the Duke of Newcastle

[N. 12, f. 438.]

WIMPOLE, Aug. 20th, 1741.

Private.

MY DEAR LORD,

Having acknowledged your ostensible, I come now to

¹ King George was said to have burnt his father's will to avoid paying the legacies mentioned in it, including one to Frederick's mother, George I's daughter.

² Augustus, Elector of Saxony, who, according to Harrington's dispatch (f. 78), was to receive large territories taken from Maria Theresa.

³ Cf. Horace, *Od.* 2, xvii. 4.

answer your Grace's private letter, and must begin by returning you my thanks for the unwillingness you express to call me to town, every instance of which I look upon as a new proof of your friendship to me, who stand in need of that protection at this season. I take it very kindly of you that you remind me of my duty on these occasions, which I readily acknowledge; but at the same time I know that neither my station nor my share in the administration requires my being present at every one of these meetings, nor has it ever been expected of my predecessors in a long Vacation.... What can we say directly to a question whether the King may depend upon being assisted with money by his Parliament for these purposes? What use might be made of a flat answer in the negative to support neutralities, or the new negotiations set on foot by the ministers sent *privately as Elector* to the several Courts mention'd in the letter? This is no reason for giving hopes in a very unreasonable thing, but it is a reason for great caution....

[H. 59, f. 80.]

[On August 28, the four ministers refuse to draw up a memorial to be addressed to the States General in Holland, and they respectfully beg the King to return to England, since it is impossible for them to give advice on such complicated and frequently varying events with advantage in his absence.]

Rev. Samuel Salter¹ to the Hon. Philip Yorke

[H. 257, f. 104.]

BYRTON, September 5th, 1741. . .

[Encloses a copy of a letter from the Rev. J. Lowcock, Chaplain-General to the forces at Porto-Bello, dated from New Porto-Bello Harbour, as follows:]

" If I dare speak my mind, I would say that I think you would make the properest use of his Lordship's [*i.e.* Lord Chancellor's] condescension and of my friendship, if you acquainted him with some particulars from time to time, which are studiously concealed by our superiors here, but of which you may depend upon my giving you the truest and most faithful accounts. You know my situation here; that I am neither disgusted at being overlook'd or postpon'd, nor ambitious of the primacy [*i.e.* of America] which my Lord of London fills with so much honour to himself and advantage to the plantations, tho' perhaps, should it become vacant, my honest accounts might give me as fair a claim to succeed his Lordship as my brother

¹ p. 102 n.

Richardson's plausible letters and elegant inscriptions can give him. I know he aspires to that post in the W. India Church, and looketh with an evil eye on us, who are chaplains to the land forces. I have been told, he expresteth much dissatisfaction at my taking the title of Chaplain-General and hath thoughts himself of writing himself Chaplain-Admiral. *Non equidem invideo, miror magis.* But not to trouble his Lordship or you with our private bickerings, I beg leave to assure you that the relations, which you have from your papers (which I am told your Lord readeth and admireth¹ greatly) concerning the state of this town and its forts, are shamefully false, and that matters here are in a very different state from what they are presented to you. I will only tell you what I myself saw with my own eyes. I was lately drawn by curiosity to survey the monuments of British spirit and patriotism, discoverable, as I had been instructed to think and talk, in the ruin and utter demolition of the many strong and beautiful fortifications about this town². When to my exceeding surprize and scandal, I saw myself two forts, the Iron Castle and the St Hieronimo, not only standing and unhurt, but even in a condition to annoy and repel any enemy, how brave soever....Nay, I will venture to add that I could myself, with a boy's squirt, have done them as much damage. As for the Vice-Admiral and his squadron, I know not how to speak of them without suffering the imputation of malice, rancour, and corruption; yet I must whisper you in your ear that of the boasted six ships only [sic], there are now three only fit for service, that the others were indeed lay'd up to refit, but were, when I was in the harbour, in no condition to renew the war. The so much puff'd and applauded Admiral seemeth to me out of his head, a fate I have long suspected would betide him. He is served on the knee, is attended with all the insignia of royalty, hath carried his frenzy to such an extravagance as even to create himself an earl, after having changed his name without Act of Parliament from Vernon to Noel. He hath poorly robbed a most learned and worthy earl of G. Britain of his name, stile and title and suffereth no one to come near him that will not engage beforehand to acknowledge him as Earl of G, or in the language of the proprietors of Carolina, as a Landgrave of the New World. For his crew, they have literally fulfilled the scripture prophecy, for they have turned their swords into plough shears and their spears into reaping-hooks and are gone soberly and peacefully about their harvest; whilst he [? sitteth] in mock state and hath converted the good ship *Burford* into a coach and six adorn'd with coronets and radiations...."

Thus, Sir, you have my friend, Jack Lowcock's letter to make what use you please. I shall make no remarks upon it at all; but must say this for my friend (who is since dead, poor fellow!), that as he doth not seem to have had any ambition, unless perhaps

¹ I.e. is astonished at.

² Portobello had been captured by Vernon in November 1739, but was destined to be soon relinquished, see p. 195.

he aspired to the dignity of Archbishop of America..., he may be depended upon as saying nothing from private or sinister views¹....

S. SALTER.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 89.]

CLAREMONT, September 9th, 1741.

Very secret.

MY DEAR LORD,

...You will see, my dear Lord, the melancholy situation that things are in abroad, which I think must soon, and most sensibly, affect us here at home; the Queen of Hungary entirely abandon'd and exposed to the resentment of a cruel and merciless enemy, the countries divided so as to be of little use to those that are to have them², if there hereafter should arise in them an inclination to be of service to the common cause in opposition to their great benefactor; France already giving law to all Europe and (what most immediately affects us) plainly endeavouring to do so to England by their threaten'd invasion of the Electorate of Hanover, and I pray God they may not succeed in that as absolutely as they have already done in everything else.

You will see how my Lord Harrington continues in his private letter to assert that the King has amply fulfill'd his engagements to the Queen of Hungary, that his Majesty is the only prince that has appear'd for the House of Austria. I heartily wish my Lord could make out his assertion, and then our affairs would be much easier (at home at least) than I at present apprehend they will be.

On the contrary, I must freely own to you that things appear to me quite in a different light. An electoral jealousy of aggrandizing the King of Prussia prevented at first our setting about an accommodation between the Queen of Hungary and him in the manner we ought; and a fear of his attacking the Electorate afterwards has been the sole reason of our not furnishing our contingent to her, tho' so strongly and so often advised by the King's servants here; and now, not only a neutrality with the King of Prussia ask'd and (as is said) granted, but the utmost endeavours used by the King's electoral minister at Paris, by Mons'r Bussy³ at Hanover, and by the canal of the Kings of Prussia

¹ The writer, however, seems anxious to get into the notice of the Chancellor, and shows the common jealousy of the land forces of the Navy, so that his narrative is not entirely dependable. See further, p. 276.

² This passage, and many others in this letter and elsewhere, have been underlined, but they have not been printed in italics, since no special emphasis seems to be attached to them, and the lines were perhaps drawn subsequently by a hand other than the original writer's.

³ Bussy; see above, p. 245 n.

and Poland (as appears plainly by Amelot's¹ letter to Valory²) to procure some declaration from the Court of France that no attempt shall be made upon the Electorate of Hanover; and in return reciprocal assurances are offer'd from the Elector of Hanover that no opposition shall be given to the allies or army of France. And I am afraid the same will be insisted upon from the King of England also, or otherwise it is pretty plain, from Amelot's letter to Valory, that the French will not come into it; and from 101's³ discourse with Lord Harrington it looks as if some conditions with regard to our war with Spain would be tack'd to it; and God knows how far that principle, which has hitherto intimidated us, may operate, even in this instance; and when this is the true state of the case, my Lord Harrington is sounding to arms and extolling the resolution of giving battle to the French, in case they enter the King's country. They ask and entreat the French not to fall upon them, offer not to oppose the French in anything and, by an intercepted letter of the Bavarian minister at Hanover, it looks as if even His Majesty's electoral vote might be given in favour of the Elector of Bavaria⁴. But if, notwithstanding all this, the Court of France should persist in their resolution of attacking the Electorate of Hanover, the King will defend himself with his own troops (six thousand of which are new raised), nine thousand Saxons, if he can get them (and on what conditions they are had is yet a secret to us), and twelve thousand Hessians and Danes, actually in English pay and promised to the Queen of Hungary for our contingent, tho' they have never made one step towards coming to her assistance. How is it possible now to say that the Electorate is attack'd for the sake of the Queen of Hungary? Is it not, on the contrary, more reasonable to imagine that the Queen of Hungary is abandon'd for the sake of the Electorate? Have we taken one step, since the fatal neutrality first came into our heads, to serve the Queen of Hungary in any one Court of Europe? Have we encouraged the Dutch, the Saxons or the Russians to come to her assistance? Or have we even, since that epoch, shewed ourselves concern'd in earnest to bring about an accommodation between her and the King of Prussia? Or have we, or do we, in the present circumstances, even treat the Queen of Hungary as a friend or an ally? And is not Mr Robinson traduced and charged by the King of Prussia (and that in a most disrespectful manner, even to the King himself) with having acted contrary to His Majesty's orders, and hitherto no notice taken of it?

My dear Lord, we may tell our own story as we please, and endeavour to deceive ourselves, but the truth will undoubtedly come

¹ Jean Jacques Amelot de Chaillon, French Minister of State.

² Marquis Guy de Valory, French Ambassador at Berlin.

³ *i.e.* Bussy.

⁴ It was, in fact, so given, and Charles, Duke of Bavaria, was elected Emperor, as Charles VII, next year, in opposition to Charles, Duke of Lorraine, husband of Maria Theresa.

out, and I think it will be impossible to prevent a parliamentary enquiry into this conduct. If the opposers (which is not to be imagined, when they have such a handle) should suffer it to pass off, we ourselves shall necessarily bring it on; the demands that will be made for the support of this Hanover peace (or at best Hanover war) will unavoidably bring this whole scene before the Parliament....I am far from thinking that this conduct is to be charged to anything that has been done by the King's servants in England. On the contrary, had our advice been pursued, different measures must have been taken. The Queen of Hungary would have been supported, as far as the strength and force of this Country in its present circumstances would admit; other powers would have seen some strength to have joined with in support of the common cause; the King of Prussia might have been either encouraged or intimidated to have come to an accommodation. And above all, the King, having acted pursuant to the advice of his Parliament, would have been fairly and honestly entitled to the assistance of this country for the defence of his Electorate, if then attack'd, on account of the measures which he would then have taken in support of the House of Austria. How that question now stands it is unnecessary to repeat to you. The Parliament advises the support of the House of Austria and (as an encouragement to the King) promises to defend his Electorate, if attack'd on that account. No succours are sent to the Queen of Hungary for fear of provoking her enemies and exposing the Electorate, and yet the Electorate, if attack'd, is, by my Lord Harrington, said to be attack'd purely on account of the measures taken for the defence of the House of Austria. If the King's servants here have been defective in anything, it has been in our not representing the ill consequences of the measures pursuing at Hanover. I heartily wish that had been done. It was not forgot, but you know the difficulty that attended any proposition of that kind.

We are now to consider what part we will take in the great questions, either in the advice to be given to the King or in the future support of the measures in Parliament. My opinion is too well known not to have created (I am afraid) a very great dislike at present in the King towards me. That may make the continuance in my office very disagreeable; and indeed, I should be very sorry to remain in the station I am in and expose myself to the dilemma, either of not supporting the King's measures in Parliament, whilst I am in his service, or of being obliged to do it contrary to my own opinion and to every act of my own in the administration. I am not, my dear Lord, now quitting the King's service. I see the difficulty of doing it, at this time, with regard to the King and my friends, and I would as little be thought to run away from danger, as to do what I think really wrong in order to continue in my employment. This consideration has long given me a good deal of uneasiness. As it is right to look forwards, I have taken this opportunity to lay my thoughts before you, upon

whose friendship and good judgment, I so much depend. I know you think in a great measure with me. I know you feel for me in every circumstance of life, and therefore I beg you would let me have your thoughts upon mature reflexion, as far, at least, as relates to my own conduct. Your Lordship will particularly consider the immediate connection that my station has with the conduct of foreign affairs; and tho' I am persuaded that no one man alive will seriously think that I have had any hand in any one of these measures that I myself am now blaming, I must own freely to you, it goes to my heart to think that France should have been able to overrun all Europe, to influence in such a degree the measures taken by this Country, and that we should sit quiet and suffer them to do it, during the time of my being with my friends in the Administration....

I am sure you can never doubt of my being with the utmost respectful affection,

My dear Lord, Your most obedient (etc.)...

HOLLES NEWCASTLE.

Lord Chancellor to the Duke of Newcastle

[N. 13, f. 32.]

WIMPOLE, Sept. 11th, 1741, 7 in the morning.

MY DEAR LORD,

...After having read myself almost blind last night in order to dispatch Cox to Sir R. Walpole in due time, I was forc'd to reserve the answering of your letters to this morning; but now I am set down to your *very secret one*. I find it so full of material facts, weighty reasonings and reflections, and put together with so much consistency and clearness, that it justly demands more consideration than the time for which it is reasonable I should detain your messenger, will allow. I must therefore beg leave to reserve the particulars for more mature deliberation, and only observe in general that, tho' I see several things to blame, to lament, and to wish otherwise, yet I sincerely believe that if a conduct had been held more agreeable to what your Grace and I approve, yet the case of the Queen of Hungary would, upon the matter, have been still the same, considering the circumstances and disposition of other powers, independent of what Great Britain has done *of late*, and the little, shameful, interested views of most of the German princes. And, as to what the Parliament may do in their next Session, finding fault is to be expected from an opposition; but I am far from thinking, by what I hear from everybody whom I have

conversed with, that it will be their sense, or the sense of the people in general, that this nation *alone* should have entered into a war for her support. On the contrary, everybody seems full of her unreasonable and blind obstinacy, and provok'd to the last degree at the conduct of the Court of Vienna in not yielding to the demands of the King of Prussia....I don't mention these things as departing from my old opinion—*nihil est quod dicta retractem*,—but to suggest that these things ought to be thrown into the scale on the other side. Add to this, that Holland (of whose vigour, preached up so often by Mr Trevor, I am quite tired), is afraid and starts even at the thought of being asked to give the King the least assistance in this exigency....

I writ last night two or three lines of civility to Sir R. Walpole, as he would know the messenger came from hence. I own I could not help saying in it, “that when I considered the terrible situation in which His Majesty at present is, I was almost angry with myself for being out of the way of business at this time ; and yet I could not find in any one of my Lord Harrington's letters, contain'd in these pacquets, that our opinion or advice is ask'd on any one point; nor did I see what we *here* could do materially in the present circumstances, since His Majesty had been pleased to think that the 12,000 men from hence could not be made useful to him in this exigency¹.”

Your Grace never judged righter in your life than when you say in your *secret letter* that *you know I feel for you in every circumstance of life*. I do so most sincerely and affectionately and will never, as long as I live, give you any advice which I would not, in the same circumstances, follow myself. I consider our views and interests as the same ; and our friendship, if you will permit me to use the expression, is the pride of my life ; for I am entirely and unalterably your's,

HARDWICKE.

[N. 13, f. 44.]

[The Chancellor writes again on Sept. 15 :]

Pudet haec opprobria. There are indeed some here who may with reason and justice say :—

Thou can'st not say I did it; never shake
Thy gory locks at me.

And yet I see that will not be an answer to all purposes on such

¹ The King wanted the money instead.

an occasion. . . . Your question, tho' consisting of *four words only* [viz. "What should they do?"] comprehends much matter and great variety of cases—foreign—domestic—public—private. In short my heart is so full on this subject that for more reasons than one, I don't care to trust myself upon it to a letter by the post. *Attamen ipse veniam* on Monday next, after which I shall hope for a free and unreserved conversation on these great points. One thing I cannot help observing at present that, as to a neutrality between Hanover and France, our opinions were never so much as ask'd; and another thing seems to be clear, that the conduct of Great Britain ought to be the same, as if it had never happen'd,—if that be possible.

[One of the most serious consequences of the neutrality and the "Hanoverian policy" was their effect on Holland, exposed now to the designs of France and of Prussia. The news of the supposed conclusion of the accommodation with France, writes Trevor [H. 59, f. 100], the English envoy at The Hague, now placed by these ambiguous schemes in a most unenviable position, created a consternation equal to that when, in 1712, the English troops retired on the occasion of the Treaty of Utrecht. The Duke, writing on Sept. 15 [H. 59, ff. 102, 104], announces that Lord Harrington had denied that the mission dispatched to France had for its object the conclusion of a treaty of neutrality, but the position of affairs was so extraordinary that it could not continue long without an *éclaircissement.*]

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 108.]

WHITEHALL, Sept. 17th, 1741.

MY DEAR LORD,

I cannot avoid thanking you for the good news you have sent me of your design to be in town on Monday next. Sir R. Walpole, I conclude, will be in town that day also. I shall be very impatient for the opportunity you are so kind as to allow me of talking with the utmost freedom with you upon the important subject of my late letters. Your last letter has given me great satisfaction....

Ever most unalterably yours,

HOLLES NEWCASTLE.

[H. 59, f. 109.]

[Writing to the Chancellor on September 18, the Duke declares that in spite of Lord Harrington's denial in his letter to

Mr Trevor [f. 104] he has every reason to believe that a neutrality, or an agreement equivalent to a neutrality, is being negotiated between Hanover and Paris and that the King has determined to abandon the court of Vienna and to give his electoral vote to the Elector of Bavaria. All the Duke's prophecies and former warnings had now turned out too true. The opinion of every man whom he had seen concerning the neutrality was the same, and no one could tell what would be the consequence when it appeared that the interests of this country had been sacrificed to Hanover. Surely a letter might be written to Lord Harrington pointing out the extreme ill-effects of this policy, the fears aroused in Holland and the intense disgust excited in England, and urging that it should not be concluded, or if actually concluded, that it should be made clear that such was the act only of the Elector of Hanover, and not of the King of England, and that the King was determined in his latter capacity to perform his engagements to the Queen of Hungary, made by the treaty of 1731, and to concert proper measures for the defence of the liberties of Europe¹.]

[N. 13, f. 75.]

[The Chancellor answers on September 28 from Wimpole. In the maze of contradictory negotiations he finds most hope in the possible desertion of the French by the King of Prussia.

[N. 13, f. 124.]

Writing on October 11, the Duke tells the Chancellor that a circular has been sent round to all the Courts by Lord Harrington, declaring the neutrality to be purely an electoral measure and one not binding the King of England. The declaration, however, appeared to make the position of affairs more, and not less, comprehensible.

[H. 59, f. 125.]

On November 1, 1741, the Duke sends a long paper entitled, "Considerations upon the Present State of Affairs." He advises a treaty between Austria, Prussia, England and the States against France, with support from Russia, Denmark and the Princes of the Empire; this alliance completed, an army of 12,000 English and Dutch to be kept in the Netherlands for the protection of the Dutch, and another army, composed of Austrians, Hanoverians, Prussians and others to act against Saxony and Bavaria and the French troops that had joined those powers, and also to defend Hanover. It was hoped that there was nothing in the neutrality of Hanover lately concluded to prevent the King of England engaging in such an alliance. The finances of France were exhausted, her commerce with the West Indies interrupted, and there might be still hopes, if such an alliance were formed, of "retrieving the affairs of Europe."¹

¹ See the letter to Harrington, September 25, 1741 (N. 13, f. 61); also H. 59, f. 113.

[H. 505, f. 17.]

[On October 3, 1741, the Duchess of Marlborough writes to the Chancellor from Wimbledon, recommending Mr Justice Beeston, a Welsh judge, to the King's favour on the occasion of his retirement :—] If it were possible from my application to do any good, it must be behind the curtain ; for my being nam'd would do hurt. And therefore if your Lordship can think of any way to ease an unfortunate old man that has serv'd so long with credit, you must keep my recommendation of him as a great secret. I cannot end this letter, notwithstanding my wishes never to be troublesome to you, without adding a great many thanks for your goodness in making any excuse for not coming to see me, which I assure you I am not so unreasonable as to expect, being very sensible of the trouble you go through. And your Lordship may remember that I us'd to be surprized at your goodness long ago, when you did me that honour without having the least call to do it. For I was very insignificant and never so fortunate as to have it in my power to do you the least service. I wish you don't think me one of those simple creatures such as I sometimes converse with, who, if one happens to say either a kind, a true or a reasonable thing to, are so stupid that they can't understand it. But I am far from thinking you can give any time to me. And I only wish the continual fatigue you are in may not hurt your health ; and yet I wish for the good of England that you may be Chancellor as long as you live, if you like it, but for the first reason more than for your own sake. One is apt to judge by oneself, and if I were a great man I should prefer keeping the best company I could get with independancy, before any pleasure this world can give. I must now beg of you to make my compliments to my Lady Hardwicke, who I hope is in very good health. The wa[nt] of it to myself can never be lessen'd. But as I am quite alone in this place, I am better pleas'd than I have been a great while, for I see nobody. And at London one is always in dread of seeing those one wishes never to see, or in expectation of seeing some few that are generally better employ'd than to come. Hopes, I think, seldom come [to] anything. And upon the whole I think my situation is not an ill one. I cannot be disappointed when I have no hope. And I fear nothing in the world but the ffrench, who am in all conditions

Your Lordship's most obliged and most

humble servant,

S. MARLBOROUGH.

[On September 27 [f. 19] she had written to Lady Hardwicke on the same subject.]

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 48, f. 37.]

LONDON, Nov. 14th, 1741.

DEAR SIR,

...I will send you an extract of a letter of a sea-officer written in Cumberland Harbour, in Cuba, Aug. 25th¹. He says that the latter part of the attempt on Cartagena will be a disgrace not easily eras'd, and that he has no hopes of making any amends for it by the present undertaking on Cuba; that the army is in a strong and regular encampment a mile distant from their first landing-place whence they do not choose to advance one step, not even to get cattle which abound in that country; but spend their time in revelling, gaming, drinking and whoring and are very peaceable with regard to the enemy's having lost but 3 men in the whole 38 days; that the army, indeed, had not upon other occasions been defective in courage, but that the general is wholly inexperienced, and what could even an army of lions do with a sheep at the head of them? As to the ships, they have done nothing, it is true, neither was it intended by the Council of war, since it was thought more feasible to take St Jago by land. The country is a most plentiful one and the safety and commodiousness of the harbours, with the near situation with respect to the French as well as Spaniards, . . . render it worth all Jamaica, were it settled. They are fortifying the harbour and it is supposed will stay there till His Majesty's further pleasure be known; but to maintain their possession it will [be] necessary to be master of St Jago, which can hardly be done without a reinforcement of men and officers, some of the latter of whom are gone to North America to raise recruits. He concludes his letter with these words: "I really begin to wish the war had an honourable end. We succeeded much better with our little squadron than with this *great Clog*, as our poor Admiral justly calls the *Army*; for tho' they do nothing, nor will proceed to action, they must be protected. He still continues his labours for the service of his country and says, if they will be inactive, it shall be in the Enemy's territories...."

Your most obliged...

THOS. BIRCH.

[N. 14, f. 14.]

[On January 10, 1742, the Duke writes to the Chancellor on the attitude to be adopted by the administration in Parliament, when the state of the nation is under consideration, adding:—]

I believe (as things are going) your Lordship and I shall not be employed very often for the future, in preparing business for the House of Lords, or advising measures of administration. By the

¹ Cf. above, p. 256.

best accounts I can learn, all might have been easy, quiet and *safe*, had it not been for the fatal obstinacy of one single man,

Resolved to ruin, or to rule, the State.

But this only to your Lordship.

I shall attend the King to-morrow, and, whenever I have an opportunity, lay before him the state, I apprehend, his affairs will be in, and where they might have been, had other measures been taken. My representations will have no other effect but to ease my own mind; your strong *remonstrances* may succeed better, and I most heartily recommend it you not to be sparing in them; *nocuit differre paratis.*

I am, my dearest Lord,...

HOLLES NEWCASTLE.

I most heartily pity my poor brother; I wish you could see him and tranquillise him a little.

CHAPTER XI

THE PELHAM ADMINISTRATION TILL THE BATTLE OF DETTINGEN

1742—1743

THERE is no truth in the assertion that Sir Robert Walpole's fall was effected by the mean treachery and jealous intrigues of his own allies within the Cabinet. This calumny rests upon no surer foundation than the ignorance or malice of Lord Hervey and Horace Walpole¹. We have seen that the loss of influence in the House of Commons and in the country joined to the envy of so great and so long continued a "sole" power, together with an unpopular foreign policy, were the real causes that at last enabled Sir Robert's enemies to triumph over him. No doubt there existed considerable dissent in the Cabinet, especially on the side of the Duke of Newcastle, from Walpole's public policy. But with his former friends and fellow-ministers there was no breach of private friendship. "Sir Robert was well protected by his friends after his fall," writes the second Lord Hardwicke, a good authority, "particularly by Mr Pelham, who had great affection for him, and soon succeeded to his power with universal approbation. He maintained his old connections and was often consulted by them²." He received their visits when in London, and according to the same authority his end was hastened by a journey which he made to town in 1744, on the King's summons, when he gave his support to the Pelham ministers against Lord Granville³.

¹ George II, i. 159, 165; *Misc. Works and Mem. of Lord Chesterfield*, by M. Maty, H. Walpole's copy in the Brit. Mus. and his note, 111. See below, p. 569 n.

² *Walpoliana*, 16; and cf. H. Walpole himself ("Detection of a late Forgery," *Works* (1798), ii. 330, 332), "Sir Robert Walpole is made to complain of being abandoned by his friends. This is for once an undeserved satire on mankind. No fallen minister ever experienced such firm attachment from his friends as he did....The open, known, avowed cause of it [his fall]—the breach between the King and the Prince—a circumstance which Mr Walpole never disguised."

³ See also *Marchmont Papers*, i. 81 sqq., and Hervey's *Memoirs*, i. 144; Coxe's *Pelham*, i. 28 sqq.; and below, p. 340.

On the other hand, the essentially personal and factious character of the Opposition was fully exposed after Walpole's retirement. It was naturally expected that the leaders of the party after declaiming against, and holding up to obloquy, the measures and methods of the minister for so many years would, immediately they had succeeded in driving him from power, themselves form an administration and inaugurate forthwith a new and glorious epoch of reform and good government. But they proved too much disunited by personal rivalries and jealousies to coalesce, and while they were disputing, the government passed again into the hands of the former ministers. "After so long a struggle as had been for many years in Parliament," complained Pulteney, "when the late minister came to be at last fairly run down and got the better of, you may easily conceive that almost everybody in the Opposition expected some employment and a total change of hands; scarce any person (though never so inconsiderable) but had carved out some good thing to himself, and many there were who thought they had a right to be consulted in the proper changes that were to be made. When this was found not to be the case and that the negotiation was fallen absolutely into Lord Carteret's and my hands, many were disappointed and dissatisfied. A schism was immediately made by some of the most considerable of our friends and some were persuaded to forsake us.... This, you may perceive, soon weakened us and gave strength to the Court again; but what is the hardest of all is that these very people, who thus deprived us of the power of extending the bottom and providing for many of them, grew angry with us that more were not preferred, though they were the only means of hindering it!" The old administration, accordingly, continued without any great alterations, and without any great additions from the Opposition or the Tories, the entrance of whom the Chancellor strongly opposed². After several consultations between Lord Hardwicke and the Duke of Newcastle on the one side and Carteret and Pulteney on the other³, the government was re-established with Lord Carteret Secretary of State and with Lord Hardwicke, the Duke of Newcastle, and

¹ Lord Bath to Lord Stair, February 11, 1743, II. 110, f. 24; also II. 37, f. 17; Coxe's *Walpole*, iii. 579.

² *Parl. Hist.* xii. 412, Secker MS., February 12, "Lord Chancellor in the evening, in private discourse to me, strong against taking in any Tories; owning no more than that some of them perhaps were not for the Pretender, or at least did not know they were for him."

³ *Life of Dr Z. Pearce* (1816), i. 393; *Life of Dr T. Newton*, ii. 47; Glover's *Mem.* 3-6; Coxe's *Walpole*, i. 699 sqq.

Henry Pelham in their former offices, and in the Council of Regency during the King's absence, while Spencer Compton, Earl of Wilmington, was made First Lord of the Treasury and nominal head of the administration, the same obscure person who had filled the gap at the accession of George II, and who was now once more chosen in order to avoid the necessity of appointing a leader from one of the contending factions and thus bringing to a head jealousies and dissensions¹. Pulteney, finding little assurance of support from his former followers, while remaining a nominal member of the Cabinet without office, disappeared practically from politics and retired to the House of Lords, as Earl of Bath, where he and Walpole, as the latter is said to have taken pleasure in reminding him, became "two as insignificant men as any in England?"

Lord Hervey, who had clung to office after Walpole's fall, was finally dismissed in July 1742, and retaliated in anonymous ballads and pamphlets directed against the ministry. "Besides abusing Patratus," writes Philip Yorke to his brother Joseph, "the Duke of Newcastle and 60 other people in a ballad² which has made much noise, he has just writ a pamphlet [*Miscellaneous Thoughts on the present Posture*] in which...he blames the Ministry for exhausting England to support the Queen of Hungary when none of her allies, not even the Dutch, would take any share in the danger and expense, and says Sir Robert never hurt his own interest

¹ *Parl. Hist.* xii. 1119. Hon. Spencer Compton (c. 1673-1743), 3rd son of James, third Earl of Northampton, had held various appointments under the Whigs; Speaker of the House of Commons (1715-1727) and then designated by George II as Prime Minister. Walpole, however, kept his place, Compton being created Earl of Wilmington, K.G., and Lord President of the Council.

² Wm King's *Anecdotes* (1819), 43; H. 110, f. 24. "One day, some time after the House of Lords was up and the House empty, the Duke of Newcastle, Lord Hardwicke, and Mr Pulteney were observed to have a long and warm conversation, which ended for the time by Mr Pulteney's going away in a great passion and the others following him. One of the clerks soon after perceived a paper torn into several pieces where they had been standing, which he was at the pains of putting together, and found it was the King's letter creating Mr Pulteney Earl of Bath to which, however, he was at last reconciled." Lord Fitzmaurice, *Life of Lord Shelburne*, autobiography, i. 47. According to H. Walpole, Pulteney, on the occasion of his taking his seat in the Lords dashed the patent on to the floor in a rage. The anecdotes are given for what they are worth, but neither writer is usually accurate in his facts. *Dict. Nat. Biog.*; see also *Anecdotes and Speeches of the Earl of Chatham*, by Almon (1793), i. 75 sqq.

³ H. 15, f. 15; H. 12, f. 97. The verse of the ballad styled *A new Cour't Ballad or the S[tate] M[iniste]rs are come*, vilifying Lord Hardwicke, ran as follows:—

"And as Miser H[ardwicke] with all Courts will draw
He too may remain, but shall stick to his Law;
For of foreign affairs when he talks like a fool,
I will laugh in his face, and will cry 'Go to school.'"

in the Cabinet so much as by opposing His Majesty's bias to Hanover." Lord Hervey closed his mean and discreditable career in August 1743¹.

The influence of the Pelhams, owing to their unremitting attention to business and to the large borough influence and following in the House of Commons enjoyed by the Duke of Newcastle, steadily increased from this time. That of Carteret, on the other hand, though a person far more acceptable to the King on account of his German inclinations and his acquiescence in the royal Hanoverian ambitions, who for a short time obtained an ascendancy in the Cabinet, but who had no support in the House of Commons or in the country and no control over supplies, as steadily declined². Accordingly next year, on the death of Lord Wilmington, in July 1743, in spite of the efforts of Lords Carteret and Bath to secure the chief power, the King, on the advice of Lord Orford, appointed, in August, Henry Pelham First Lord of the Treasury and Chancellor of the Exchequer³.

That this choice, strongly supported by the Chancellor's influence, was a wise one cannot be doubted. Of the leading men of the day the Pelhams alone were fit to be entrusted with the rule of the State. Lord Bath was repudiated by his own supporters and superseded. Lord Chesterfield, a man of high intellectual ability, "esteemed the wittiest man of his time, and of a sort that has scarcely been known since the reign of King Charles II,...a very graceful speaker in public⁴," and a clever diplomatist, who later carried out his duties as Lord-Lieutenant of Ireland with success and a notable absence of friction, was however remarkably lacking in political prudence and foresight and in the sense of responsibility necessary for the position of first minister of the State, while his talents and genius were too various to suffer him to endure patiently the load and drudgery

¹ "Lord Hervey," writes Thos. Birch to Philip Yorke, August 27, 1743 (II. 48, f. 137), "has died much richer than was expected....He has left a legacy to the public of several volumes of his writings, the principal of which are a kind of Memoir of his own Times in which it is highly probable he will fully gratify both his peculiar resentments and the personal malignity of his nature."

² See Lord Orford's letter to Henry Pelham: "He gains the King by giving in to all his foreign views; and you show the King that what is reasonable and practicable can only be obtained by the Whigs." He ends his letter "The share you have in this great event is not the least part of my anxiety. I love you, I fear for you; but courage, dear Harry, and resolution will carry you through." Coxe's *Pelham*, i. 104; and Coxe's *Sir Robert Walpole*, i. 734.

³ p. 337; Coxe's *Pelham*, i. 103, 110-3.

⁴ Speaker Onslow, *Hist. MSS. Comm.*, Earl of Onslow, 472.

of office. His private character too inspired little confidence and he was personally obnoxious to the King. He was an opponent of the claims of Hanover and of the German policy of the Government. Moreover, he had married a natural daughter of George I by the Duchess of Kendal, and on the latter's death had persisted in prosecuting a claim against the King for £40,000.

William Pitt, born in 1708, younger son of Robert Pitt of Boconnoc in Cornwall, M.P. for Old Sarum, and groom of the bedchamber to the Prince of Wales, whose striking talents and oratory had already made a great impression in Parliament and in the country and who had now become a power to be reckoned with, had risen into notice by his support of the factious opposition to Walpole and by his violent attacks upon Hanover which had occasioned his dismissal from the army, which were never forgiven and which long kept him out of the administration. Though fully conscious of Pitt's great abilities, and though on several occasions he urged the King to admit him to office, and at last with success, Lord Hardwicke never regarded him as a safe leader of the national policy. Pitt's fiery eloquence and splendid periods did not appeal to the Chancellor's calm, sober and dispassionate judgment. Himself from his youth upwards a member of administration, he regarded all opposition to the government of the country as, in a certain measure, seditious and unpatriotic. He disapproved strongly of the attacks made upon the King himself and of Pitt's violent diatribes against Hanover, and regarded his constant appeals from Parliament to the people and his play to the gallery with feelings akin to disgust.

John, second Lord Carteret, born in 1690, later, on the death of his mother in 1744, Earl Granville, according to the opinion of his contemporaries—and there is no other monument to his fame—had brilliant abilities, great learning, and an extensive knowledge of diplomacy and politics. He was one of the most effective and eloquent orators of his time. "He was a fine person," says Lord Shelburne, his son-in-law, "of commanding beauty, the best Greek scholar of his age, overflowing with wit¹." According to Lord Chesterfield, he was "master of all the modern languages." According to Horace Walpole, he was the greatest genius of his day. He had, however, all the disadvantages which often attend genius and all the irregularities of an unbalanced mind and temperament. The levity of his conduct was extraordinary in one who held high

¹ *Lord Shelburne's Life*, by Lord Fitzmaurice, i. 38.

office. He never even simulated any patriotism or fixed principles and professed to treat politics as purely a game and an amusement. According to the elder Horace Walpole, who seriously criticises the ministers for submitting so long to his influence, he had "no plan and no other consideration but to discover what his master desires and to encourage and pursue that point at all hazards and events¹." He frequently came to the Council drunk and his irresponsible and audacious schemes owed much to the enthusiasm of the bottle². There was much truth in Pitt's diatribe against him in which he described Carteret as "an execrable, a sole minister, who had renounced the British nation, and seemed to have drunk of the potion, described in poetic fictions, which made men forget their country³." Since the fall of Walpole he had obtained complete control of foreign policy, talked German with the King, accompanied him in his journeys abroad, and entered into large German and Hanoverian schemes on his own responsibility, at the bidding of the King, without the approval or knowledge of the ministers at home. Lord Carteret's "parts and wit" and his "good humour," says Horace Walpole, caused much in his conduct to be forgiven and forgotten⁴. But the levity of his public life was to the Chancellor both unintelligible and contemptible, and he generally spoke of him in terms of indignation and aversion. As a minister he regarded him as little better than an adventurer, who, in pursuit of his own interests and advancement, would barter away the essential foundations of England's greatness. Though often for vigorous measures, as we have seen, when he believed the national rights to be seriously invaded, or when war was actually begun or inevitable, and though far from thinking that England could rest secure while the power of France increased, or remain in "splendid isolation" from the Continent of Europe, the Chancellor in general showed a marked distaste for European wars and complications, and believed that England's safety and power depended rather on the maintenance of European peace and in the developement of trade and of the Colonies.

¹ Coxe's *Lord Walpole*, ii. 74; and below, pp. 319 sqq.

² Cf. H. Pelham to H., August 27, 1752 (H. 75, f. 126): "I was in hopes to have had some conversation with your Lordship last night, but the drunken state of our council, or at least one of our councillors, made it impossible for me to say much....Perhaps the lowness of my spirits may make me an improper judge, but the height of the other's makes him a dangerous one."

³ *Parl. Hist.* xiii. 136.

⁴ *George III*, i. 186.

Accordingly, from the erratic genius of these great men, from the dangerous flattery of the King by Carteret, and from the dangerous flattery of the mob by Pitt, the Chancellor turned with a feeling of security and satisfaction to the *aurea mediocritas* of the Pelhams. This mediocrity has been too much emphasised by writers to whom the more showy career of Carteret and the more dramatic quality of Pitt's genius appeal too exclusively. In reality, Henry Pelham possessed great natural abilities and performed great services to the nation. Though unlike Sir Robert Walpole in character, being timid and pliant when opposed, reserved and fretful and wanting in optimism and good humour, he inherited and carried on Walpole's great national policy—the peaceful developement of the country. He was a sound and successful financial minister, an excellent and industrious man of business, a good manager of Parliament and leader of the House of Commons. Actuated by an honest and genuine love of his country, he upheld the government and guided the state through times of dangerous crisis, during a great war, a great rebellion and a hostile invasion, and his long tenure of power was marked by the carrying through of many useful and important reforms.

Thomas Pelham-Holles, Duke of Newcastle, his elder brother, who had held office for several years under Sunderland and Walpole, has been, perhaps more than any other public man, the subject of ridicule and disparagement¹. Lord Macaulay has described him in a graphic and amusing passage in his *Essay on Horace Walpole's Letters to Sir Horace Mann*; and innumerable anecdotes are related at his expense by his contemporaries to exhibit his ignorance, folly, or vanity. No doubt this ridicule was in part deserved. His love of power was excessive. He devoted nearly the whole of his large fortune to building up the great political interest in the country which was to be his chief support in office. The approach of a possible rival to his influence threw him into convulsions of terror and anxiety, and serious difficulties in carrying on the government arose from this jealousy and from the Duke's refusal to place men of sufficient ability and power in

¹ Son of Thomas, first Lord Pelham, by Grace, sister of John Holles, Duke of Newcastle, and born in 1693, he succeeded his father in 1712 and inherited a great part of his uncle's estate in 1714. He adhered stoutly to the Hanoverian cause, and was created Duke of Newcastle for his services in the rebellion of 1715. At first a follower of Townshend, he joined Sunderland in 1717 and was made Chamberlain and subsequently K.G. in 1718. He was frequently included in the Council of Regency, and had held the office of Secretary of State since 1724.

the House of Commons to defend the measures of the administration. A series of subordinate ministers were at first taken up, caressed and applauded, only to be later the objects of jealousy and suspicion, and finally to be driven into hostility¹. His mind could never be composed; he lived in a constant ferment and agitation, says Lord Waldegrave, which must have destroyed any other man². His intense jealousy of his colleagues would have made the life of any man less inconsequent intolerable, and his correspondence with the Chancellor is filled with complaints and fears of the other members of the Cabinet, and with piteous appeals for his support against their supposed intrigues. His jealousy of his own brother more than once threatened to upset the administration, and without the powerful influence and intervention of the Chancellor would certainly have done so. Occasionally the Chancellor himself was the object of his ill-humours, having inadvertently offended some susceptibility, but these small misunderstandings were speedily dispelled by forbearance and kindly tact and judicious reasoning³. His life was a continual contest for personal power or else a continual anxiety lest he should be deprived of it, like that of a miser divided between the labour of amassing gold and the fear of losing it. But besides the substance of power the Duke took a feminine delight in the show and appearance of it. He loved the praise, appreciation, and flattery of his friends and colleagues. He enjoyed the personal importance attached to high office, the crowded levees where numbers waited to ask favours, or to receive commands, and where he would be seen overborne by the weight of business, talking to three men at once and saying nothing to the purpose. On all occasions, whether receiving foreign ministers, inspecting fortifications in the Netherlands, or directing the wheels of diplomacy, politics and patronage, he liked to play the part of a great man. Yet no man ever understood so little how to maintain that outward dignity of great place which he so much desired. His hurry and fussiness, his strange ways, his indecorous manners, the nonsense let drop in his confused, flurried and rambling discourse, in which he contradicted himself every instant, the ridiculous importance attached to trifles of domestic concern, his fear of cold and of damp beds, afforded

¹ See the skit by Sir Charles Hanbury Williams, *Works*, ed. by H. Walpole, i. 1.

² *Memoirs*, 10 sqq.

³ See e.g. the letter of the Duke, of March 14, 1743, which instead of the usual terms of endearment begins stiffly "My Lord," and concludes "Your most obedient humble servant." II. 59, f. 182.

general amusement¹. "I am obliged to you for the care you take about my bed," he writes to Lord Hardwicke before arriving at Wimpole, "you must forgive the weakness and folly of an old fellow but I am afraid I had that when I was young²." No one was ever more unsuccessful in gaining the respect of men or more subjected to general rudeness and rebuffs. And to this he exposed himself greatly by his total want of reserve and restraint and by his too familiar and undignified manner and address. "It was unaccountable to me," writes Joseph Cradock, "that so much as he had been ridiculed by Foote on the stage, that he could not restrain himself, even in the street, from seizing your hand and holding it between his hands, while perhaps he would ask the most unnecessary trifling questions³." "No change changes him," wrote Joseph Yorke commenting on his absurd style of writing, "for he will live and die like himself and unlike any other person⁴." But these outward eccentricities did not constitute the whole man. "He is not to be judged of," said Charles Yorke, "by the rules by which you would try most ministers⁵." It must be remembered, moreover, that his picture has been drawn almost entirely by his enemies, by men disappointed of rewards and places, or by persons such as Lord Hervey⁶ and Horace Walpole, whose pages are stained by low calumnies, and where wit or malice have dwelt too exclusively on the traits which amuse or which disparage.

The Duke of Newcastle was far from being the inept dunce and driveller described by Macaulay. Though "too apt to think in a hurry and be alarmed at every trifle," writes the second Lord Hardwicke, no partial witness, he "did not want parts⁷." His speeches in the House of Lords where he was eclipsed by brighter stars, though they have no claims to eloquence or art, are often much to the point; and he frequently withstood successfully in debate strong attacks made upon the government. Lord Waldegrave, who declares his manner ungraceful, his language barbarous and his reasoning inconclusive, allows that he laboured through a debate, fought boldly, never gave up the cause and was never at

¹ Lord Wilmington had said of him "The Duke of Newcastle always loses half an hour in the morning which he is running after the rest of the day without being able to overtake it," Walpole's *George II* (1847), i. 163. Lord Chesterfield's character of him; Coxe's *Pelham*, i. 3 sqq., and H. 12, f. 111; and below, chap. xxi., Col. J. V. to Lady Anson, Feb. 22, 1752 sqq.; Walpole's *Letters*, iv. 48, v. 116; see also the ridiculous story of the Duke's getting into bed on account of the coldness of Pitt's room, Dutens, *Mém. d'un Voyageur*, i. 142.

² N. 265, f. 188.

³ *Memoirs*, iv. 118.

⁴ H. 17, f. 255.

⁵ H. 12, f. 279.

⁶ *Memoirs* (1884), ii. 327, 345, 346; iii. 274, 390.

⁷ H. 72, f. 292.

a loss for words or arguments. The immense number of letters and dispatches of the Duke's composing, included in the national collection, enable us now to form an independent judgment of his political ability and personal character. These do not in the least bear out the disparaging picture handed down by some of his contemporaries. They testify on the contrary to a comprehensive knowledge of foreign politics, to broad and farseeing views, and to action on the whole wise and intelligent, if not always successful, with a tendency towards an active or "forward" foreign policy, while certain reviews of the political situation and of the remedies to be adopted and forwarded to Lord Hardwicke for criticism, are exceptionally able and well-reasoned documents. The charge of treachery brought against him is quite unsubstantiated; but his long tenure of power and exercise of patronage for nearly half a century, together with the consequent entanglement in the political machinery and intrigues of the day, could not fail to raise a crop of disappointed expectations, disillusionments and evasions, if not of broken promises. According to Sir Robert Walpole, for every place a minister filled up he gained one friend and made eleven enemies, and "if one did nineteen things for a man, they all signified nothing, if one did not do the twentieth¹." Compared with Pitt, whose morality was so conspicuous and perhaps too ostentatious, "the Duke of Newcastle," according to Lord Shelburne, "was at bottom an honester man; but he lost the reputation of one by good nature and want of resolution in conducting the common patronage of the Treasury²." He was too good natured to refuse a request, says Lord Waldegrave, and too confused to remember them. "There might be vanity and some strange external inconsistencies" writes Cradock³; "but there always appeared to me a steady disinterested integrity about him, and I shall always with the utmost gratitude revere his memory." His failings, his jealousy and occasional ill-temper, were themselves largely the result of an affectionate, but too sensitive nature, which felt too keenly the rubs of public life; and his temperament often appears in pleasing contrast with Henry Pelham's cold but wiser reserve. He had a deep affection for his brother, notwithstanding their frequent disputes, and on his marriage he had given up to him a considerable part of his fortune⁴. He had many amiable

¹ II. 4, f. 137.

² Lord Fitzmaurice, *Life of Lord Shelburne*, i. 84.

³ *Mem.* iv. 118, already quoted; also Lord Waldegrave, *Mem.* 10 sqq.

⁴ Coxe's *Pelham*, ii. 25, 305; see also pp. 362 sqq., and his affectionate letters to H. Pelham on the occasion of a resumption of good relations after a quarrel, N. 19, f. 17.

qualities and domestic virtues, high principles and sense of honour, great candour, generosity and good nature. "My dear Lord," he writes to Lord Hardwicke, on October 14, 1749, "I know myself as well as any of my friends know me; my temper is such that I am often uneasy and peevish, and perhaps what may be called wrong-headed, to my best friends, but that always goes down with the sun and passes off as if nothing had happened; but I can never charge myself with ever having been wanting essentially towards those I professed a friendship for in my whole life." It is unjust to represent him as guided entirely by selfish and ambitious motives in his public life. He was sincerely and firmly attached to the principles of the Revolution settlement, the Hanoverian dynasty, and the Protestant cause, and he did good and solid service for his country. He consistently resisted, even at the risk of losing power and place, the King's Hanoverian tendencies, conducted foreign affairs in most difficult and critical times on the whole with wisdom, managed with great success the national finances, and provided for expensive and burdensome wars. Throughout his long tenure of office he maintained a character beyond even the suspicion of corruption¹. At the end of nearly 50 years' service to the Crown and nation, he retired without receiving any rewards. "I own I feel for his death," writes Lord Chesterfield in 1769, "because I knew him to be very good natured and his hands to be extremely clean, and even too clean if that were possible; for after all the great offices which he held for 50 years he died £300,000 poorer than he was when he first came into them²."

There is something very pleasing in the relations between the Duke and Lord Hardwicke, in the mutual friendship and confidence maintained intact for half a century through so many vicissitudes and dissensions, untouched by jealousy within and unshaken by attacks or intrigues without. A greater contrast never existed in character. On one side was all strength and on the other all weakness. On the Duke's nervous emotionalism, fearfulness, fretfulness, a want of self-reliance and fortitude, and on the Chancellor's a calm, well-balanced judgment, a firm resolution only strengthened by danger or opposition, and principles unshaken by the varying and shifting political conditions, because built deep on the foundations of experience and public duty.

¹ E.g. Walpole, *Letters*, i. 318.

² Maty's *Misc. Works and Memoirs of Lord Chesterfield* (1777), iii. 418; also Lord Rockingham's *Mem.* i. 11.

This close connection and alliance originated in the support given in early days by the Pelhams to the Chancellor, to whose interest he owed his introduction to political life. Lord Hardwicke was always exceedingly sensitive to, and mindful of, obligations of this kind. And as time passed on the Pelhams became more and more distinguished in his mind as the only statesmen of the day through whose presence in office could be maintained internal governance and good order, a sane and prudent conduct of affairs abroad, a due control of the King's foreign schemes by the ministers, and the government of the State according to the principles laid down at the Revolution.

The general policy of the Government on the fall of Walpole was as little changed as its composition. None of the great reforms, before so loudly called for, were now attempted. The Septennial Act was not cancelled, taxes were not diminished and the standing army was not dispersed but maintained and increased. A Place Bill, which excluded inferior dependents of the Court from the House of Commons, was indeed brought in and passed; but the usual methods of facilitating public business, by rewards of different kinds, continued to be employed, and long afterwards George III was living on mutton chops in order that the greater part of his civil list might be spent on buying votes in the Parliament.

Even the attack upon Walpole himself proved a complete failure. By a small majority of seven votes a committee of investigation, numbering twenty-one, was appointed by the House of Commons on March 23, 1742, consisting entirely, except two, of the minister's professed enemies; but after a sitting of twenty-two hours without intermission, it failed to obtain any satisfactory evidence of corruption. A Bill was then passed in the Lower House by a majority of twelve for indemnifying witnesses, to secure all hostile witnesses against any crimes or misdemeanours of their own which might be disclosed in giving evidence against Lord Orford. In the Lords the Bill, which was debated on May 25, was supported by Lord Chesterfield and the Duke of Argyll and opposed, amongst others, by Lord Carteret and the Lord Chancellor. To the latter, both as a friend of Walpole and as a judge, this Bill was particularly distasteful, giving as it did an unfair advantage to the attack on the minister and at the same time violating the principles of English Common Law and justice, a fundamental principle of which was that purchased evidence was not admissible.

"My Lords," he said, "I have given this Bill the most impartial

consideration and will give my opinion as if I had never known the person interested in it, as I would decree in a cause or judge of an impeachment. Nothing is more contrary to the rules of justice than evidence to be drawn forth in this manner. Under the laws regarding discoveries of felonies, it has not been unknown that a club of men have gone about from assizes to assizes making false discoveries. A temptation, such as now in this Bill entices witnesses, cannot be approved. A man that owes £20,000 to the public, that hath committed high treason, if he will swear against the Earl of Orford, shall be free. There hath been no instance of indemnifying every person that will swear against one person. Hath it been shown that there is any foundation for a criminal charge? Another Lord hath answered that though there is not a *corpus delicti*, there is a *corpus suspicionis*. I am not ashamed to own, my Lords, that I do not understand the meaning of these words. I very well understand what is meant by *corpus delicti*, and so does every other Lord; it is the 'body of an offence'; but as to *corpus suspicionis*, it is an expression I never heard before and can signify nothing more than 'the body of a shadow,' the substance of something which is itself nothing. Such is the foundation of this Bill, my Lords, by the confession of its warmest and ablest adherents. It is a Bill summoning a person to a trial, against whom no offence is alleged and against whom no witness will appear without a bribe. A general advertisement for evidence against a person would be a high misdemeanour and it would be illegal in the Crown. Belief is nothing in evidence, but by this Bill whoever believes the Earl of Orford to have been concerned in any criminal act shall be indemnified for having been actively concerned in it himself. It has, my Lords, been asserted by the Duke [of Argyll] that the public have a right to every man's evidence. That is a maxim which, in its proper sense, cannot be denied, but the public is not entitled to every method of coming at that evidence. It is not entitled to the evidence of a man who may gain or lose by his evidence. There was an old law whereby a felon, by accusing another, might clear himself, but Lord Chief Justice Hale in his Pleas of the Crown disapproved this much¹. This Bill makes persons witnesses who could not be witnesses. It indemnifies all the rogues in the three kingdoms, if they will come

¹ Lord Chesterfield had said that such an indemnity was not a new thing in the constitution, because rewards were daily offered to highwaymen and murderers for the discovery of their accomplices.

in for this purpose. The Bill is in my opinion calculated to make a defence impossible, to deprive innocence of its guard, and to let loose oppression and perjury upon the world. It is a Bill to dazzle the wicked with a prospect of security and to incite them to purchase an indemnity for some crime by the perpetration of another, to confound the notions of right and wrong and to violate the essence of our constitution. The necessity of dwelling so long upon the question, whatever effect it may have upon your Lordships, has added new strength to my own conviction. My Lords, so clearly do I see the dangers and injustice of a law like this, that I would more willingly suffer by such a Bill in my own case, than consent to pass it in that of another!¹" The Bill was then thrown out by 109 votes to 57.

On March 11, 1743, the Chancellor opposed the "Bill for further quieting Corporations," which had been brought forward in consequence of prosecutions, alleged to have been instituted by Walpole, of mayors and corporations who opposed his party in the elections, for which opportunities often presented themselves in ambiguous or contradictory charters. The Bill provided that all members of corporations after a certain time, whether regularly or irregularly elected, should be protected from expulsion or prosecution. This rough and ready method of dealing with the matter was not at all approved by the Chancellor who pointed out that the remedy provided by the Constitution, namely the impeachment of the offending minister by the House of Commons, where the abuse would be most felt, was the proper one in this case. While acknowledging the evil and desiring its removal, he showed that the Bill would create others; and while securing the corporations from ministerial interference, would let into them all kinds of persons not properly qualified, who would possibly violate the conditions of the charter and encroach upon the prerogative of the Crown. "As no human institution can be so absolutely perfect as to be free from all inconveniences, it requires great judgment and foresight to choose that which shall be exposed to the fewest and the least dangerous consequences." He warned the House against the perils of over-legislation and increasing the volume of the Statute Book. Society was exposed to many evils and inconveniences which could not be prevented by a positive and particular law, without opening a door for greater mischiefs. The Bill was finally rejected by 63 to 24².

¹ *Parl. Hist.* xii. 651, 691; Coxe's *Walpole*, i, 710.

² *Parl. Hist.* xiii. 47, 67.

The chief interest, however, during this period lay in affairs abroad. In foreign policy there was no greater change than in domestic, and those of the new administration, who, while in opposition, had railed against the subservience of the ministry to Hanoverian interests, now showed themselves more amenable. Walpole had already arranged for the dispatch of British troops to Flanders, and for the enlistment of 6000 Hanoverians in British pay, and Carteret, Sandys, and Pulteney, now supported a grant of £65,000 for Hanoverian troops, mainly for the defence of Hanover; but Pitt still continued to fulminate from the cold shades of opposition, against "the despicable electorate," to which "this great, this powerful, this formidable kingdom is considered only as a province!"¹

More energy was thrown into military measures and a policy of further, rather than less, intervention in European politics was the result of Lord Carteret's ascendancy, who himself accompanied the force of 16,000 men sent to Flanders under Lord Stair. He failed, however, in persuading the Dutch to combine openly with England and no military success resulted, the army remaining the whole year, inactive, idle, and discontented².

The Chancellor's third son, Joseph, began his military career in the Netherlands at this moment, being appointed ensign in the Coldstream Guards at the age of 18, on April 25, 1741, and lieutenant on April 24, 1743³.

On May 25, 1743, his brother Charles inscribed to him the following lines:

Sonnet in imitation of Milton.

Captain, (eftsoons a Colonel I ween)
 Studious thro' scorching heat or wintry breeze,
 Where flows the Rhine our glory to renew;
 With spirit bold yet tempered, dost thou mean
 The great Leviathan, in troubled seas
 Who takes his dangerous pastime, to subdue;
 In humble sphere, whence noblest deeds oft spring,
 For Europe's cause to follow Britain's King?

Thus Rome's brave youth, renowned for feats of War,
 Each in his private station of command,
 Each sought to form even by his single hand,
 A Laurel wreath their Leader's brows to crown;
 Yet hence they augured one day to prepare
 A fairer wreath of Triumph for their own.

¹ *Parl. Hist.* xii. 162, 968, 1035, 1119.

² p. 308.

³ p. 310; Mackinnon's *Hist. of the Coldstreams*, ii. 482.

"P.S. Colonel is to be pronounced as a word of three syllables on the authority of Milton, who uses it so. I think I have done justice to your resentment against France as the disturber of Europe. A scripture allusion, as that of the Leviathan, is in Milton's manner, as you will readily recollect¹."

By the time that Parliament had assembled in November 1742, the prospect was for the moment somewhat brighter. Peace had been made in June 1742, at Breslau, between Maria Theresa and Frederick, and the French forces had been left completely isolated at Prague, a remnant only succeeding in returning home. The King of Sardinia had been detached from the enemy and a threat of bombardment by Admiral Mathews had compelled the King of Naples to observe a neutrality. In December 1742, a defensive treaty was made with Russia, by which Great Britain engaged to supply 12 men-of-war and Russia 12,000 troops, in case of an attack by a new enemy (namely France)².

On February 1, 1743, in a great debate in the Lords, the Hanoverian vote of money was once more denounced by Lord Chesterfield and other peers, but was now justified by Lords Bath and Carteret.

The Hanoverian question which so sorely beset and troubled our forefathers was only, in its general aspect, the same problem which remains still to be solved, whether the policy of Great Britain should be insular, continental, or imperial. The ideal has always been a "splendid isolation," but in all ages isolation has proved impossible. In practice, the principle of the balance of the European Powers has been that most generally followed; and such a policy entailed of necessity the support by English arms and English money of the weaker Power assailed on the Continent. Intervention and continental politics were also unavoidable if British trade and Colonies were to be defended and their natural development secured. These great lines of policy brought in their train an attitude of permanent hostility, in spite of treaties, towards France and Spain, and one of jealousy towards the Austrian Netherlands on account of Ostend, and towards Holland, a dangerous commercial rival. The remainder of the European States, especially those of the North, Russia, and Sweden, the Empire and Prussia and the various German States, fell into line as foes or friends, according to their different changing relations to the principal combatants. Yet, while it was impossible for Britain to stand aloof

¹ H. 37, f. 13.

² *Royal Hist. Soc. Transactions*, N.S. xiv. 169.

from continental wars and politics, her strength did not consist chiefly in military but in naval resources, while her proper development did not lie in the direction of new acquisitions of European territory, but in expansion, both colonial and commercial, in the New World and in India. Hence British military operations in Europe were only secondary to the greater struggle elsewhere. Chief importance was not to be assigned to them in the expenditure of British blood and treasure, and their object was to be limited to the aim of keeping France employed in Germany, of exhausting the resources of the principal enemy, and of preventing her utilisation of them in the colonial or naval sphere.

Such in brief appear to be the broad lines of the complicated and everchanging military and political situation abroad during this period, of which the British alliances against France, first with Austria and secondly with Prussia, are the most conspicuous incidents. For us, who can look down upon the past, as if from a height, and include the whole scene and the whole horizon in one view, it is far easier to discern the right way and to judge of the wisdom of measures than it could be for contemporaries groping and wandering in the encumbered plain; and in carrying out their gigantic task it is no wonder that sometimes a Carteret or a Newcastle pushed too eagerly into continental entanglements, and a Walpole or a Pelham drew back too timidly.

To this complicated situation a fresh difficulty and perplexity was now added by the accidental union of Hanover with Great Britain. In its general aspect, the possession of Hanover with its well-trained army, with the influence of its Elector among the German princes, and with its position near to the Netherlands between France and Prussia, was a valuable military and political asset in the great struggle with France. Unfortunately it was impossible to consider it entirely from this point of view. The King's affection for the land of his birth refused to allow the electorate to become a mere pawn in the great game between France and England, or Hanoverian interests to be subordinated, even for a time, to the larger issue. He was actuated by projects of Hanoverian aggrandisement in the empire, incompatible with British policy, and which often embarrassed the course of British negotiations, impeded the movements of the British forces, dimmed their victories and diverted money and men, voted by the British Parliament for the great struggle with France, to petty Hanoverian

objects¹. The whole foreign policy of the nation was weakened and impeded. The patriotic spirit throughout the country, necessary for supporting a great war, was stifled. Measures which were obviously wise in themselves were regarded naturally with suspicion and opposed, because the direction was felt to be in Hanover and not in London. The situation of ministers was thereby rendered especially difficult and humiliating. They had responsibility without control. They remained powerless while the King and his favourite minister, away in Hanover, discarded their plans and policy and initiated new Hanoverian projects. Moreover, they were debarred from exculpating themselves in Parliament and placing the blame and responsibility on the proper person, the King. Nor was it only the relations between the government and the Parliament that suffered. The Hanoverian miasma reached the Council Chamber and raised jealousies and antagonisms, which would otherwise not have existed. To keep the royal favour it was necessary to be, or to seem to be, a Hanoverian. A minister might, as we have seen, combine Hanoverian with British interests. But what certainty could there be that a Carteret or a Chesterfield, in the pursuit of power and influence, would not overstep the right limits in obedience to royal persuasion or authority? Such desertions of public duty more than once took place in Hanover, when one minister accompanied the King thither and, unknown to his fellow-ministers, consented to alterations of measures.

In the midst of so much that was dangerous and injurious to the national interests, the Chancellor stood alone in his strength, greatness, and independence, free to pursue the path of patriotic duty, unswervingly and consistently. He appears early to have fully understood the nature of the special evils which affected the State at this time, arising from the peculiar character and position of the King, the personal animosities and ambitions of ministers and the tendency in the people to disloyalty and disorder, and to have foreseen the ill-effects that these must inevitably have both upon exterior and domestic matters. These fears greatly influenced his outlook on foreign affairs. In the main, his opinion supported strongly all that policy which had for its object the diminution of the power of France and the support of colonial and commercial interests; but his consciousness of internal weakness, his knowledge of the King's instability in the general cause, induced caution and caused him often to deprecate a great extension of British

¹ See below, pp. 318 sqq.

responsibilities in Europe, and incline occasionally to the peace rather than to the war party.

On February 1, 1743, however, he gave vigorous support to the government on the vote of money for the Hanoverian troops, denounced by Lord Chesterfield and other opposition peers, and showed the impossibility and folly of the insular theory in foreign policy¹. He argued that the House of Austria was the only power which could balance that of Bourbon. "This equipose of power has been ridiculed by some noble Lords, and it has been asserted that we should show the highest degree of wisdom by attending steadily to our own affairs, by improving the dissensions of our neighbours to our own advantage, by extending our commerce and increasing our riches without any regard to the happiness or misery, freedom or slavery, of the rest of mankind. My Lords, if we examine the history of the last century, we shall easily discover that if this nation had not interposed, the French had now been masters of more than half Europe; and it cannot be imagined that they would have suffered us to set them at defiance in the midst of their greatness². An armada would certainly have been dispatched against these shores, and the endeavour, when once they had defeated our fleet, would not have been hazardous. To think that we could extend our trade and increase our riches in this state of the continent is to forget the effects of universal empire. The French, my Lords, would then be in possession of all the trade of those provinces which they had conquered. They would be masters of all their ports and of all their shipping; and what might not be dreaded by us when every ship upon the ocean should be an enemy, when we should be at once overborne by the wealth and numbers of our adversaries, when the trade of the world should be in their hands, and their navies no less numerous than their troops?

"It has indeed been almost asserted that the fatal hour is now arrived and that it is to no purpose that we endeavour to raise any further objection to the universal monarchy projected by the French. We are told that the nation is exhausted and dispirited; that we have neither influence nor riches nor courage remaining; that we shall be left to stand alone against the united House of Bourbon. I am far from denying, my Lords, that the power of France is

¹ Walpole's *Letters*, i. 324, "My Lord Chancellor [spoke] extremely well for them."

² Cf. what actually took place, in similar circumstances, under the Napoleonic ascendancy.

great and dangerous, but can draw no consequence from that position but that this force is to be opposed before it is still greater. If our wealth, my Lords, is diminished, it is time to confine the commerce of that nation by which we have been driven out of the markets of the Continent. If our courage is depressed, it is depressed not by any change in the nature of the inhabitants of this island but by a long course of inglorious compliance with the demands of other nations, to which it is necessary to put an end by vigorous resolutions. If our allies are timorous and wavering, it is necessary to encourage them by vigorous measures; for as fear, so courage is produced by example; and the bravery of a single man may withhold an army from flight¹."

Meanwhile, the British forces led by Lord Stair and reinforced by the Duc D'Aremberg and some Austrians, as well as by the Hanoverians, to the number of 40,000 in all, after spending much time and energy in altercations and disputes, slowly collected on the Main, where they were confronted by 60,000 French under the command of the Marshal de Noailles. The battle of Dettingen, characterized by incompetent generalship on both sides but by fine courage and conduct, followed on June 27, 1743.

Whether by the fault of Lord Stair, a distinguished officer but old and inactive, and recalled to arms after a retirement of 20 years, or by the interference of others in his plans and arrangements, the army with great deliberation was led into the worst position that could be found in the neighbourhood², a hole or defile between the Spessart mountains and the river Main, where it was immediately surrounded by the enemy and cut off from all reinforcements, magazines, supplies and forage. The King, appearing in person at this crisis, ordered a retreat to Hanau, during which the army was completely at the mercy of the French. But the latter, throwing away their extraordinary advantages, quitted their strong position and engaged on equal terms, and in the end were totally defeated and routed by the British and allied forces, led by His Majesty in person, who showed great resolution and bravery³. The King, however, refused to allow a pursuit by the English cavalry of the disordered enemy and, though the French lost 6,000 men, the chief advantages of the battle were missed. The Guards brigade, in

¹ *Parl. Hist.* xii. 1164.

² pp. 314, 320.

³ pp. 314 sqq. See the account of "Mr Kendal of Lord Albemarle's troop," *Gent. Mag.* xiii. 387, July 1743, which is corroborated by another good witness, Col. Russell, *Hist. MSS. Comm.*, Mrs Frankland-Russell-Astley, 260, and for whole account of the battle, 251 sqq.; II. 257, f. 174; II. 59, ff. 212, 218.

which Joseph Yorke was serving, to their great disgust, had been forced to remain mere spectators during the whole fight, owing, it was declared, to the King's desire that the prowess of the Hanoverians should not be dimmed by British exploits. Nothing further was attempted, and the rest of the year was taken up with councils of war, wrangling, and complaints of Hanover, Lord Stair at its close throwing up his command with great *éclat*¹.

CORRESPONDENCE

Lord Chancellor to the Duke of Newcastle

[N. 14, f. 265.] POWIS HOUSE, May 31, 1742: Monday morn.

MY DEAR LORD,

Your Grace's letter of yesterday gave me the greatest uneasiness as it contained a complaint of my late behaviour towards you. It gives me inexpressible concern that Your Grace should think me capable of any alteration towards you, and much more so that it could proceed from any motives injurious to that friendship which is my greatest honour and boast....I must own that my late indisposition did, to a degree, affect my spirits, already too much loaded with disagreeable reflections upon the unhappy situation of public affairs....

I have obeyed your commands in seeing Mr Pulteney², and last night spent almost three hours with him. He seems to me to be in [a] very calm, reasonable and well-intentioned way, and I liked what he said extremely....As I am just going to Westminster, I have not time to relate all that past and shall reserve it till we meet....I beg, my dearest Lord, that you will never entertain the least doubt that I am

Ever and unalterably yours,

HARDWICKE,

Lord Chancellor to the Hon. Joseph Yorke

[H. 6, f. 5.]

LONDON, June 21, 1742.

DEAR JOE,

I received much pleasure by your letter, which found me at Wrest the latter end of the Whitsun week with your brother and Lady Grey. We read it over and over and travelled with you.... We rejoiced to hear of the health and good spirits you were in and I pray God continue those blessings to you.

¹ For his memorial and complaints of Lord Carteret see H. 110, ff. 44-144.

² He was not created Earl of Bath till July 13.

I don't doubt you have heard of the fortunate turn affairs have taken in Germany by the Treaty signed between the Queen of Hungary and the King of Prussia under His Majesty's mediation¹. This will, I hope, produce great good consequences, invigorate the measures of the Dutch, and add to your good spirits in Flanders. I think it cannot fail to raise the reputation of the British measures and add to the regard shown to the British troops abroad. Pray let me hear what the speculations upon it are in your parts, but you know it is necessary to write with caution from foreign countries....

I very much approve the good sentiments and resolutions you express. Be sure you constantly adhere; and let no ill example or misplaced ridicule either seduce or laugh you out of them. I cannot add to the good advice I gave you upon the head of your duty to God, yourself, or those you converse with; and may the impressions of it be lasting and strong! You will receive herewith a very good letter from your old friend the Dean of Carlisle², for which you are much obliged to him. Remember besides, that whoever goes into a foreign nation, stands entrusted with some part of the honour of his country, not only in respect of the bravery, but of the morality and politeness of his behaviour. If you persevere in these good ways, you shall want no encouragement or support from me, and you will make yourself many friends....

All here send you much love and showers of good wishes. Let us hear from you often, and be assured I am always

Your most affectionate father,

Who prays God to bless you,

HARDWICKE.

P.S. Your Mama tells me she sent the Dean's letter last week. His R.H. the Duke [of Cumberland] inquired very kindly after you on Saturday.

Hon. Joseph Yorke, with the army in Flanders, to the Lord Chancellor

[H. 6, f. 7.]

GHENT, Wednesday, July $\frac{1}{2}$, 1742.

...We were received at Lille with all the politeness which is usual to the French. The Commandant, without our mentioning it in our visit to him, offered us to see the town and citadel which we were a little surprised at, because we did not expect to have seen

¹ Treaty of Breslau, June 1742, see above, p. 293.

² Robert Bolton (1697-1763).

the last; but the next morning, when we went to the citadel, we were stopt at the gate by the sentry, who called his officer, and upon his asking who we were and we answering that we were English officers, he said that he was much concerned, but if we were English, he had orders not to admit us, and upon our replying that we had the Commandant's leave, he answered that that was very true, but that they had held a Council about it the night before and had come to a resolution not to admit us. I own freely it gave me more pleasure than I ever felt in my life, much more than I should have had in seeing it; when I considered that we had once been in possession of that place and with the blessing of God might be so again, the honour of my nation came strong into my mind and it rejoiced me to see that they esteemed us of some consequence. This may perhaps appear a gasconade, but the recollection of it is so pleasing that I can no more help writing it than I could then thinking and enjoying it. We dined at the ordinary with the French officers who answer well the descriptions one has always heard of 'em. Their tongues never stand still one minute. They were of opinion that we should not have a war.... They all of 'em unite in cursing the King of Prussia and without doubt the English, who have been the sole means of bringing that happy event about¹, which spreads such universal joy over the face of this country. There are at present but very few troops in Lille, and those, excepting a regiment or two of Swiss, all milice, which, to be sure, are not despicable troops, but being entirely clothed in white, without the least bit of any other colour about 'em, and their regimentals old, they make the most beastly appearance that I ever saw in my life. These milice are most of 'em of Brittany; their language is Welsh and they are very much affronted to be called French. The Swiss regiments, that are in the French King's pay and those in the service of the States, are all extremely well clothed and paid. They reckon a company in a Swiss regiment a better thing than a Dutch regiment [i.e. than the command of a Dutch regiment], nor do the officers themselves deny it. At Brussels I had the honour to present my letter to Count Harrach² in a private audience. Count Harrach lives in great state here, nor ever invites to dinner but upon such days as the Q. of Hungary's Birthday, etc.; but he was so polite as to ask all the officers of Genl. Honeywood's Dragoons to dinner with him, who were there in their march to Liere. He received me with great civility and made many fine speeches, and finally asked me and my company to dinner, which was indeed a very magnificent one. The King's health was drunk as *Toujours Librateur D'Europe*. At night there was an assembly at Made^e. Harrach's, at which I was present, and the Count did me the honour to introduce me to her and to all the ladies. I did not play at cards so that by conversing with the ladies I had an opportunity of learning more of the language than

¹ Treaty of Breslau.

² Friedrich August, Graf Harrach (1696-1757), Governor of the Austrian Netherlands.

in any other way; and I found I improved more in that night than in all the time I had been [in] Flanders before. The Dragoons were reviewed the next day for the entertainment of the ladies, and indeed they performed extremely well and to the satisfaction of everybody.....

Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 7.]

[GHENT], *July 21*,
August 1, 1742.

DEAR BROTHER,

...We are here in a very uncertain state. One day the Parade resounds with nothing but encamping and baggage horses, and another that we shall stay where we are all the winter; one while Marshal Maillebois¹ is marching down to confront the Dutch and us in Flanders, and then again he is on his return to France and all subsides in peace. For my own part I should be glad to go anywhere so that this cursed town should not be benefitted by us, and it is as much as we can do to agree together. Famous have they been for mutineers and grumblers in history for many ages, nor does the present age at all fall short in that hopeful spirit. There was indeed a fray happened while I was out of the town, which might have been attended with very bad consequences. One of the soldiers was buying a bullock's heart at a butcher's, which, upon smelling at, he did not think was as sweet as it should be, and upon that told the woman it was not good and returned it to her again. She not understanding the language and imagining that he abused her, took up a large tray and began to lay it upon him with a good will. Upon this the husband came running out and, seeing his wife engaged, without enquiring the cause, attacked the soldier with his cleaver, who upon that thought it was time to draw his sword and make as good a retreat as he could, which accordingly he did, calling out at the same time for help, upon which he was soon joined by 3 or 400 soldiers. The tumult increased every minute till there was many thousands of the burghers assembled with all sorts of weapons. The officers, who put themselves into the thickest of the crowd to disengage their men and end the scuffle, were pelted with large stones which the mob dug out of the streets, but happily the wounds that they received have been attended with no bad consequences. Such was the rage and fury of the soldiers that after the officers had got 'em into their barracks, a drummer of our regiment (who could never be found out) beat to arms and the men loaded with ball, and had it not been for the vigilance and alertness of the officers, more mischief would have ensued. The burghers knocked down General Honeywood's Dragoons as they walked quietly through the streets, upon

¹ J. B. F. Desmarests, Marquis de Maillebois (1682-1762), distinguished himself at the siege of Lille in 1708 and elsewhere. He was now sent to bring aid to the French army at Prague, but did not succeed in getting further than Ratisbon.

which 40 or 50 of 'em drew their broad swords and fell pell mell amongst [them], which made 'em fly a little. General Howard¹ himself was under some doubt whether he should not beat to arms and march out in form against 'em, and I believe it would have been done, had it not ended as it did. The affair has since been enquired into and the soldiers found to be in the right; and tho' this is the case, yet such is the timidity of the magistrates or such the power of the burghers, that none of the ringleaders, who were taken up, have been punished or anything done in consequence of the enquiry. I think indeed that we concede too much to 'em, and to confirm what I say I'll produce one instance. Last Sunday there was some religious procession upon which occasion the men and officers were confin'd all day in their barracks. Rich's Dragoons and Durore's Regiment were under arms out of the town, tho' it rained; the sentries were even taken off from our General's and the Guards ordered not to appear without their guard-rooms. It is an old saying "that if you give an inch they'll take an ell," which is exactly the case here; but I think, since they won't do us justice though we are in the right, we have nothing to do next time but to right ourselves and burn the town². What M. Maillebois' designs are is not discovered; he has been the bugbear a long time but I hope he will cease to be so any longer..... I rejoice to hear they continue in so bad a way at Prague³, and that the gasconning of Belleisle⁴ may be a little humbled—God grant that it may end as it has begun. The Governor told me that when they offered to surrender the town and the garrison prisoners of war, provided the army might have liberty to go where it pleased, Prince Charles⁵ answered that he had express orders from the Queen to the contrary, but that this he would venture to do, to let the army return into France, provided the garrison surrender'd prisoners of war, the Foot left their arms and the Cavalry their horses; but as they did not think themselves reduced quite to that extremity they returned to their quarters and continue to intrench themselves. We hope if no sinister action should happen, nor the French gain too much time by proposing terms and talking of a general Peace (which tho' they talk of I believe they do not mean: *Timeo Dancos et dona ferentes*, for they are devilish cunning), when the other column of Artillery is come up, to hear of some fine *coup de main*.

Wrest is at this time, I daresay, very pleasant and the ladies

¹ Hon. Charles, later Sir Charles Howard, K.B., son of the third Earl of Carlisle; Colonel of the 19th Foot; commanded a brigade at Dettingen and Fontenoy and the British infantry at Laffeldt; died 1765.

² Cf. R. Wright's *Life of Wolfe*, 26.

³ p. 293.

⁴ Charles Louis Auguste Fouquet, Comte and later Duc de Belleisle (1684-1761), Field Marshal; Commander of the French army at Prague.

⁵ Charles Alexander of Lorraine (1712-1780), son of Leopold, Duke of Lorraine, and younger brother of Francis, husband of Maria Theresa, later Emperor Francis I; Commander-in-Chief of the Austrian forces.

enjoy the serpentine canal with infinite satisfaction. I am afraid of indulging the thought too far, lest I should wish myself there, which is a thing I don't permit myself to think of. My compliments attend the Duchess [of Kent], Lady Grey,.....

Yours,

JOSEPH YORKE.

P.S. I am just going to dinner with Capt. Sheldon and his Mess.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 137; N. 14, f. 347.]

NEWCASTLE HOUSE, *Tuesday morning, Aug. 3, 1742.*

MY DEAR LORD,

As I have not had the pleasure of any private discourse with you for some time and am always desirous of it, whenever I can and you will permit me, if you will give me leave I will wait upon you this evening between eight and nine.... Give me leave only to beg one favour of you. I have observed, as I mentioned some time ago, less activity in business than formerly, which I have feared may arise from an inclination to withdraw from the active part of it by degrees and confine yourself chiefly to your own office. If this is in any measure the case, I must beg you would consider in what situation you will leave me, diffident of myself, doubtful, without the precious advice and opinion of my friends (and as to that I must reckon only my brother and yourself), whether measures, started in a hurry often first in the closet, executed with precipitation, are or may be advisable, and utterly unable, without the assistance above mentioned, to resist by myself the torrent. My brother has all the prudence, knowledge, experience and good intention that I can wish or hope in a man, but it will, or may, be difficult for us alone to stem that which, with your weight, authority and character, would not be twice mentioned. Besides, my brother and I may differ in opinion, in which case I am sure yours would determine both. There has been for many years a unity of thought and action between you and I ; and if I have ever regretted anything, it has been (forgive me for saying it) too much caution in the execution which, I have sometimes observed, has rather produced than avoided the mischief apprehended. Forgive me therefore, my dear Lord, if I own most freely to you, that it will be impossible for me in these circumstances to go on with credit and security to myself or with advantage to my friends, if the world don't see and understand that you, my brother and I are one, not in thought only, but in action ; not in action barely, but in the first conception or digestion of things. This will give us real weight, this will add strength to us in the closet and in the ministry. But this can be

done only by yourself. I have desired my brother to talk very fully to you who, I believe, intends it some evening this week. I think I can guess from whence, or rather from what, any tendency to what I so much apprehend may arise¹. That is to be prevented only by the union I have recommended amongst us three. If, which I can't suppose, I should be so far mistaken that, when I am looking out for other causes, you should really have taken something amiss in me, or in my manner, the favour I beg, as I said at first, is that you would freely tell me so. I will as freely own, if there is the least glimpse of foundation for it; but as I know my own heart, I find it full of all the love, attention, gratitude and regard for you that it is possible for me to have for another.

I am ever yours,

HOLLES NEWCASTLE.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 243.] *Private:*

NEWCASTLE HOUSE, Augt. 6th, 1742.

MY DEAR LORD,

As I shall not have the pleasure of seeing you before I go to Horsham, you must excuse the trouble I now give you. The Duke of Argyll² was yesterday morning with Lord Carteret and, as my Lord reported, in the best humour imaginable, highly applauding all our measures, and particularly the last of the Hanover troops, against which there was not one word to be said, now we had *got* Prussia³, which his Grace owned he thought had not been *possible*, and also assured my Lord that he would put an end to all opposition....As you will certainly have soon a conference with his Grace, I beg you would [express]...my great satisfaction in the noble part he acted with relation to the insolent attempt of the Jacobites*, and you will also say what you think

¹ The struggle for the supreme power in the Cabinet between the Pelhams and Lords Carteret and Bath was not decided till July 1743, when Henry Pelham was appointed First Lord of the Treasury, p. 337.

² John Campbell, second Duke of Argyll and Duke of Greenwich (1678-1743), had served with distinction in the Marlborough campaigns, and had rendered great services to the Hanoverian dynasty by his prompt action at the crisis caused by Queen Anne's death; and as Commander-in-Chief of the forces in Scotland in 1715, he was principally instrumental in suppressing the rebellion. But his subsequent conduct was not equal to these great beginnings, and his political career was inconsistent and factious. He was one of the most distinguished orators in the House of Lords and one of Walpole's chief antagonists, by whom he had been deprived of his offices. He was reinstated by the new ministry, being made Commander-in-Chief. But his pride was unsatisfied and he resigned a few weeks afterwards.

³ By the Peace of Breslau in June.

* N.B. The attempt of the Jacobites on the D. of Argyll alluded to in this letter was a letter from the Old Pretender to him delivered by Lord Barrimore as he was taking leave after a visit, and which his Grace was shocked at and immediately sent to the

proper upon the discovery made to me by 101¹.... You will not fail to discover whether there may not have been some little industry used by the brother² in flinging his Grace into his present channel. You will find how he is satisfied with it, and whether he intends any distinct or separate attachment there upon the principle of the late Privy Seal³; and as my Lord Duke was very free *very lately* in his declaration to you upon Lord Carteret's subject, he will himself naturally explain a little upon it. I know your friendship for me and your discretion, or I should not write so freely. I know you will take this hint as far, and no farther, than is proper. I have not the least uneasiness at the present preference. I see great conveniences in it. I would not by any means lessen the present impulse that way, but have a mind to know how far it goes⁴. I have not time to explain a very mortifying incident that happened to me yesterday. His Majesty in the circle was pleased to talk most graciously to all my brother ministers and to my own brother who stood next to me, and not one word to me. If this is not alter'd, I can't go on. But no more at present. *We*⁵ have back friends at, or corresponders with, court....

HOLLES NEWCASTLE.

Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 11.]

GHENT, Tuesday, *Aug. 31st, Sept. 11th, 1742.*

DEAR BROTHER,...

I heartily join with you in wishing quiet to our native Country within herself, for otherwise you had better call us home again to show ourselves in the Mall and Ranelagh Gardens, which I hear miss us very much, but *ça suffit*.... As to the disposition, character and manners of living of the inhabitants, I can't say much for 'em, tho' in different places they differ much.—At Ghent and Antwerp much bigotry, self-conceit, and ignorance, at Brussels and Lisle much politeness, better eating, and good bookseller's shops, at Bergen-op-Zoom, Tournay and Menin, more bluntness, more water, and good fish. The forces of the Queen [of Hungary] are but few in number, not above 3 or 4 Battalions in any of the Towns (except at Mons). Their clothing is in better condition than I expected it and their pay pretty well, I believe not a little better since the last sum from England. As to their condition to resist an invasion from France, I can't say much, tho' they do pretend to fidget about as if they would repair their fortifications; but whilst we are here, we are the *murus ahenus*.... You'd laugh to hear the different stories we make up in the Garrison in half an hour. One

Secretary of State. II. [Lord B. conducted the Jacobite intrigues at Paris. He was arrested in February 1744 (*Hist. MSS. Comm.*, Sir T. Pulestone, 328).]

¹ p. 245 n.

² Lord Islay.

³ Lord Hervey, dismissed in July.

⁴ I.e. the connection between Lord Carteret and the Duke of Argyll.

⁵ I.e. they.

runs in and whispers you that Lord Stair is gone into England to be replaced by the Duke of A[rgyll]. Another bawls out that we shall encamp exactly that day s'ennight, who is immediately contradicted by another who says that can't be, for he has not got his *Bât Horses*: no, but, answers another, seriously, the Dutch are to garrison Dunkirk and I have good intelligence that we shall return to England next spring. Thus we run about, tho' at present a little relieved by a troupe of French Comedians who are arrived and are not very bad ones. They have play'd *Le Joueur* and the *Distrait* of Regnard with success. It will help out long evenings a little. The plays are always done before nine that the Bourgeois may go home to supper. Prague still holds out to our great disappointment and notwithstanding the repeated losses they have sustained, tho' we don't think Maillebois¹ will get up time enough, or at least strong enough, to do anything. I believe they are, in the jockey phrase, a little *foot-weary*, for they have been without shoes longer than their shallow brains can remember. We expect His Majesty to make the campaign with us and the Duke [of Cumberland], or at least to meet the K. of Prussia at Aix; and the news-hunters to-night will have it that you will send us 9,000 more troops. If you do, you will have shown this country such a sight as they are already amazed at, and what they can never expect to see again.... You see I write to you without any constraint, method or reason, as things come into my head; but the intent of all my nonsense is to assure you that I am your affectionate and obliged brother and servant....

Duke of Newcastle to the Lord Chancellor

[II. 59, f. 139.]

Sept. 9th, 1742.

[Relates the course of negotiations abroad and proceeds:—] Our General [Lord Stair], when he was ready to put his foot into his yacht had like either not to have gone at all or in extreme bad humour. The King at his taking leave did, I believe, show he thought the last part of his project altogether impracticable, chimerical, etc.* This so incensed him that he attacked my brother, Carteret and I most violently, charged us with having determined to do nothing, that we did not deceive him; he saw how things were, that it was all a farce, and to that effect. My brother secretary he treated harsher, charged him with acting directly contrary to what he had said at our meeting and would have fancied

¹ See note above, p. 301.

* This was about Lord Stair's scheme of a march to Paris. H.

John Dalrymple, second Earl of Stair (1673-1747), a distinguished soldier and diplomatist, had served in William III's and Marlborough's campaigns and rendered great services as Ambassador in France; became a strong opponent of Walpole in Scotland, but on the latter's fall was made Field Marshal and given command of the British troops abroad. His project of an advance to Paris was a favourite one, having been proposed by him to Marlborough formerly and rejected by him.

that *rebus sic stantibus* everybody was of opinion almost for this project. I was forced to contradict that very strongly and to assert that the unanimous opinion was to be in a readiness but to determine upon nothing. This we both adhered to with some warmth. We were forced to make our report of this to the King, who was so much of our mind that he would not suffer the affair to be reconsider'd or consent in any degree to alter or extend the resolution taken by us at our meeting. This being so, my brother Carteret was to try his dexterity, and has succeeded so well that in a few hours he sent our General away in very good humour, as he says. Things go very well on with us, that is with Lord Carteret, my brother and I; but I cannot but observe that my Lord Privy Seal* is returned from Staffordshire in the same story (as we are told) that some others have been in of late, that *one man*¹ has got so much credit and reputation by his conduct in foreign affairs that they are all wishing and desirous to join, act, submit &c. to him, but then it must be upon conditions, that is, he must for his own sake take in some of them. The answer has been, "You know my connexions, have you any objection to Harry Pelham?" Pray mind that, I don't much like these kolloquing *pourparlers*, but perhaps they may both end alike.

To be serious, and that is what I shall talk more fully upon when I have the pleasure to see you, the best way to defeat all this is to get the better of them in their own way, if it can be done without disobliging our own friends, and upon no other foot am I ever for it, and I think I have now in my hands a sure way of doing it. I know (and my brother is now fully convinced of it) that I can absolutely depend upon Mr Murray. He will beat them all, with their own friends, I mean, Pitt, Lyttelton, &c. The death of poor Tyrrel gives me an opportunity of bringing him immediately into parliament, which I am disposed to do and indeed at present fully intend. That will be a declaration on his part which will work more ways than either Lord G[owe]r or Lord Ches[terfie]ld think of. My dear Lord, turn this in your thoughts. Let us be strong upon our own bottom and then everybody will use us well. You see how freely I write to you†....

* Lord Gower. II.

† Lord Carteret.

† N.B. The beginning of the political connection with Murray. II. [William Murray, afterwards the great Lord Chief Justice and first Earl of Mansfield (1705-93), son of David, fifth Viscount Stormont, distinguished already for his eloquence and legal abilities, and Lord Hardwicke's most famous disciple in the law. He had already served the Duke usefully in his private affairs and he now attained his first official promotion, being made Solicitor-General, November 27, 1742, and entering Parliament as member for Boroughbridge. He became the chief supporter of the government in the House of Commons and defended ministerial measures with success against the tirades of Pitt. The Duke of Richmond writing to the Duke of Newcastle, December 3, on the same subject, after expressing his sense of Murray's great abilities, adds:—"The only objection that can be made to him is what he can't help, which is that he is a Scotchman, which (as I have a great regard for him) I am extremely sorry for." (N. 14, f. 537.) Lord H.'s answer approving, N. 14, f. 401.]

[H. 59, f. 146.]

[On September 28, 1742, the Duke sends an account through Andrew Stone of Lord Carteret's mission to the States. The Dutch refused to send any soldiers to join the King's in Flanders or to defend the barrier towns, if the King's troops marched into French territory, in order to secure their retreat. They only undertook to support the King when attacked, at the same time making several complaints relating to the Electorate. All, including the Dutch ministers, expressed a strong desire that the King should remain in England. At the same time the Duke transmits the King's commands to the Chancellor to come to London as soon as possible for a Council.] Forgive me, my dear Lord; it was impossible to avoid sending for you. The King was this morning determin'd to go on Monday or Tuesday. He wants mightily to see you to find out some means of holding a parliament, if he should, contrary to his intention and inclination, be detained abroad, but this must not be*.

[f. 152.]

[On Lord Carteret's advice, however, who returned in October, the King gave up for the present his intention of putting himself at the head of the army.]

Lord Chancellor to the Hon. Joseph Yorke

[H. 6, f. 13.]

WIMPOLE, Oct. 10, 1742, O.S.

DEAR JOE,

When your letter of the 25th of September, O.S.¹ arrived at Wimpole, I happened to be in London, which made it so much the longer before it came to my hands. It would have given me much pleasure if it had only brought me the good news of your health, which I always wish and pray for; but it was abundantly the more welcome from the good sentiments which I find expressed in it, and which the more firmly you fix in your mind and the more steadily you pursue in your conduct, the more you will *undoubtedly* find both your character, peace of mind, and general happiness advanced.

I make no question but you have done your best in providing camp necessaries, though the particular terms are to me an unknown tongue; for we want a military dictionary to explain your hoccums, canteens, pallias's etc., tho' we understand very well your *sacks to forage corn in* to be a kind of thieving utensil legitimated by the practice of war....

* The late K[ing] having a strong passion for military glory, was often very absurd in his manner of showing it. H. 6, f. 11.

Be watchful against fevers and colds, and don't above all things risk them by intemperance or frolics ; but in your duty all hazards must be run. If you find any approach of them, *principiis obsta....*

Whilst you lie in quarters in the winter, be very diligent in making yourself master of all the branches of your profession you can possibly. Without that all other merit is defective, and a man makes an ill figure in being everything but what he professes to be. This is best done by industriously attending to the particular parts as he goes on. I have heard of those who, whilst Captains of foot, have despised the low functions of that inferior post, studied nothing but great enterprizes, and in imagination, led armies of an hundred thousand men ; and by these means have, as it were, overlooked everything as they went along, and never understood anything of their trade from the Captain to the Captain-General. I don't write this out of the least doubt of your application, for I have heard a very good account of it, and only mean an admonition to perseverance. In the intervals of your business, you will have sufficient time for study, in which you should give tactics and fortification the first place¹, history and modern languages, particularly French, the next, by no means omitting to read the Roman history, both for the subject and the language. If you want any more books from hence, mention them and they shall be sent you.

If you can at any time be spared from your duty, I should not be sorry if you visited the Hague, and perhaps Brussels again, with company as well chosen as your last. As you will there see more of the world and polite company than at Ghent, it may tend, if rightly used, to your improvement, and I shall not grudge the expense within a reasonable compass. A manly politeness is necessary to every gentleman, but is particularly advantageous in making the fortunes of a soldier, if it be superadded to the essential qualifications. But in any such excursions you must be more than ordinary attentive to the general rules of your conduct, and be upon your guard against all approaches of vice....

I think I have by this time laid you down a plan for your winter campaign, and I have chosen to do it now thus at large, because Term and Parliament oblige me to be but a sorry correspondent....

¹ This good advice was faithfully followed. See the young officer's notes on Fortifications, II. 919.

Earl of Stair to the Lord Chancellor

[H. 239, f. 78.]

BRUSSELS, Oct. 23,
Nov. 3, 1742.

MY LORD,

I give your Lordship a great many thanks for the very obliging letter your Lordship was pleased to write to me by your son, who seems to me to be a very pretty young man and very well worth taking care of....Our misfortune at present is that tho' we have a very great army we have very few officers....Your Lordship knows very well that of late it has not been fashionable to know anything of one's own business....I shall think myself very happy whilst I am in public business to enjoy the happiness of your Lordship's friendship and protection....

I am ever, with very great esteem and respect,

...STAIR.

[The Chancellor's reply and thanks (f. 101).]

Lord Bolingbroke to the Lord Chancellor

[H. 239, f. 74.]

ARGEVILLE, Oct. 30, 1742.

MY LORD,

You was pleased to renew in so kind a manner when I was last in England the marks of your friendship, that I think myself obliged to take the first opportunity I have had since my return into this country to make my acknowledgements to your Lordship. You showed me good-will and friendship, though I was a stranger to whom you owed nothing personally, whilst many who owed me much, affected to show me their ill-will and their enmity because there was a mean merit acquired by doing so; and even as far back as when the favour of the late King could not protect me against the malice of his minister, nor secure me the full effect of his promises¹. These are obligations, my Lord, and such as I shall remember always. The life I now lead, the place I inhabit, and the company I see in it furnish nothing that can be of information or entertainment to your Lordship. A great scene, and one wherein the greatest talents may be, and indeed require to be, exercised, is opened. God grant it may be closed by barring effectually a family ambition, which I apprehend we revived and encouraged at least, by the Quadruple Alliance and have favoured too much ever since. I see distinctly but one corner of the scene, and I believe your Lordship will approve my silence even about that. I conclude therefore by renewing the most sincere assurances that I am and will be always,

Your Lordship's most humble and most obedient servant,

H. ST J. L. BOLINGBROKE*.

¹ See p. 96.

* I never heard what this related to. [The family ambition is no doubt the

[The Chancellor replies on January 8, 1743 (f. 114), with thanks and assurances of his desire to assist him together with Lord Carteret in the matter communicated to the latter (which probably related to Lord Bolingbroke's restoration to the House of Lords or possibly to business connected with his estates). Lord Bolingbroke's acknowledgments of his former services were beyond his merit. These services were] only the duty owing by a counsel to his client, but it was my happiness that my labours were employed in the cause of a person of your Lordship's distinguished talents and politeness, and whose refined way of thinking can turn acts of justice into obligations. [No one could join more heartily in Lord Bolingbroke's desire as to the manner of closing "the great scene"; but "family ambition" was an hereditary complaint, almost impossible to eradicate, and only to be kept under by strong medicine administered from generation to generation¹.]

Captain Edward Smith² to the Lord Chancellor

[H. 568, f. 27.]

BURFORD AT SEA, between Porto Rico and Hispaniola, May 10, 1743.

MY LORD,

At Curosoa I gave your Lordship an account of the proceeding of the squadron to that place³, where we patched up the tattered ships with all expedition. Finding a disposition in the common people of that place to assist in the taking Cavalos [Porto Cabello], we encouraged them agreeable to their desires, the Commodore and Captains of our squadron agreeing to give them large shares out of our profits that might be taken, upon which

Hanoverian policy favoured by the Quadruple Alliance between England, France, Austria and Holland in 1718.] I recollect the letter to have been given, or rather slipped into my Father's hand, by Will. Chetwynd at the H. of Lords. H. [Presumably William Richard Chetwynd (d. 1770), M.P. for Stafford, Master of the Mint in 1744, afterwards third Viscount Chetwynd.]

¹ See further on Lord Bolingbroke and his correspondence with the Chancellor, below, p. 377.

² Probably Capt. Smith of Dover and hence the acquaintance and correspondence, see p. 226.

³ F. 24, where he described the unsuccessful attempt upon La Guaira on February 19, 1743, and see H. 59, f. 190. This was an expedition sent under Captain, afterwards Admiral, Sir Charles Knowles, to attack the Spanish colonies on the Caracas coast; but the Spanish were prepared and were aided by the Dutch, and the project ended in failure.

terms we were in hopes of procuring near 400 men which would have been a great service to us, who in general were greatly reduced by loss and sickness. But the Governour proved a very sad fellow, entirely in the interest of the Spaniards. The 22nd March, we sailed from thence with four sloops, manned with the natives, to sail under our colours and orders. We stood over to the Spanish Main, endeavouring by all possible means to get to windward but unfortunate[ly] for us a constant lee current prevailed....The 16th, in the even, we anchored to windward of Cavalos, at the same time placed the *Bomb* under a convenient key who played some shells that even. That even and the next morn very early the Commodore was on board the *Bomb*, from whose masthead he could view the forts and all the batteries of the Enemy. By eight in the morn he returned with the plan of observation and immediately called a Council, when it was resolved without loss of time to land the forces with what seamen could be spared, to endeavour to take two fascine batteries which would greatly facilitate our affairs and strike a great terror into the Enemy, as we could turn those guns against themselves. The *Norwich*, *Eltham*, and *Lively* were sent in to cannonade those batteries all day and the *Bomb* was directed to point the shells that way, to prevent the Enemy's carrying on their works and to destroy what they could, which had the desired effect. In the afternoon the forces were landed, soldiers and seamen upwards of 1,100, the *Assistance* within her length of the shore conveniently placed to secure their retreat. The forces marched with great security and privacy till they came to a hut, the Enemy's advance guard, where was four Spaniards asleep, which would have continued so, if those that entered the hut had only put their swords through them and marched on into the fascine battery with the same ease; but by fatal mistake they endeavoured to bind them till one that resisted more than the others stabbed two of our people, than [? then] they shot him which alarm and unhappy mistake took among our own people, who fired several musquets among each other, which occasioned two guns to be fired from the batteries. Notwithstanding, if 50 men only had marched, they had found none to resist; but a shameful general panic seized the whole, some of the soldiers hove down their arms; they all run back in the greatest confusion that ever was known, though called to by the Commodore, who rowed in a boat along shore as they marched and told them they had nothing to fear; there was no Enemy, it was only their own people that had made the mistake. They were deaf to all that could be said; the panic had so generally possessed them that when they came to the *Assistance* they would not stay for the boats to take them in, but many of them left their cloaths and swam off. I'm told an officer of the soldiers was of the number. They don't deserve the name of soldiers in British pay and so your Lordship would say if you saw them. I refer the rest till I have the honour to kiss your hand in London.

Thus, my Lord, the best concerted thing without any difficulty or hazard was by ourselves, to our great dishonour, overturned. The Forces were reimbarked. To our great concern, finding we had no land forces to depend on, it was agreed by General Council to take on board some water and make one general attack with the ships. A disposition was made accordingly and the 23, St George's Day, the Patron of our Country, was resolved on. Accordingly, when the breeze came, we weighed with hearty good will but even our Saint failed us; it fell calm in about an hour which obliged us to anchor till the next day. We weighed about noon, the *Assistance* led, the *Burford* next, *Suffolk* next, *Norwich* next; the *Eltham* and two twenty gun ships were appointed against the fascine batteries; as the *Assistance* and I passed those batteries we gave them our larboard broadsides. By some accident to the *Assistance* she anchored a ship's length too soon, I pressed ahead of him and anchored as close as I could get to the Castle, receiving their fire all the while. The Commodore soon followed. About one we began a very warm engagement, the fascine batteries being right ahead of us, till our ships got the better of them; they raked us fore and aft; we had the pleasure in many places to tumble down great part of the Castle wall and beat their embrasures in two and three into one, every hour hoping and expecting to silence the Enemy, but they behaved very bravely notwithstanding our fire was quick and strong. About 9, when we could see to fire no longer and our ammunition well expended, the Commodore made the signal to cut and come off; my masts, yards, sails and rigging being cut to pieces, [I] could make little use of them, but the breeze being off shore we drove out of gunshot and anchored again.

As soon as the engagement began, the Enemy sunk a ship across the harbour at the narrowest part of the entrance, to support a boom of cables and chains they had prepared from each shore, which they might have saved themselves the trouble, as no ship can enter the harbour but by warping, and that they had very well defended against by three fascine batteries as well as the Castle, which is equal or very little inferior in size and strength to Boca-checca. Our strength was by no means equal to the place; all our hearts of oak depended on was the enemy would not stand a long, hot, close engagement. The Governour of the Province and the Governour of the Castle were both wounded, as we had an account by the prisoners exchanged before we came away, and near 200 killed or wounded. They had about 1,500 Biscayners to defend the Fort, who lay close in the Esplanade and came upon the batteries as occasion, and about 3,000 Indians and inhabitants. The *Cora* and *St Sebastian*, two of the three ships I engaged, April 1742, were in the Harbour and about 10 sail more with two galleys. The *Cora* and *Sebastian* had landed all their guns at L'Guira and Cavalos, their largest carrying about a 28 lb. ball, several of which we have on board. I don't trouble your Lordship about our bombs,

as we had so little success ; not one in twenty did good....As soon as the *Burford* was patched up (in the meanwhile some of the ships got on board some water), we left the coast and are making the best of our way to Antigua to re-fit and come home with the Trade. And to say the truth I want as much repair as the ship ; I wish I may be as easily equipt. I'm sure [I] shall always be as ready....But sickness subdues the most obstinate constitution....

Your Lordship's obliged, most faithful and obedient Servant,
E. SMITH.

[H. 59, f. 196.]

[The Duke of Newcastle, May 28, 1743, writes to the Chancellor a summary of events abroad :—] We had yesterday, in the afternoon, a mail from Holland which brought letters from my Lord Carteret, dated the $\frac{18}{29}$, last from Hanover. Upon his Lordship's arrival at that place, he found letters from Lord Stair acquainting him with his having intended to pass the Main and the opposition he had met with in the execution of that design. Lord Carteret wrote in answer to Lord Stair on the $\frac{18}{29}$ a positive order that he should make himself master of some strong and convenient post between Francfort and Mentz, so as to be in all possible security till the conjunction of the whole army ; and that he should absolutely not seek any action till the whole army was assembled ; that the British, Hanoverian, and Hessian troops were all in march to join him and the eight battalions that were to come from Hanover in motion, and would join him as soon as possible ; that His Majesty would come in person, as soon as he should hear the army was join'd, which he supposed might be in four weeks, reckon'd from the $\frac{18}{29}$. [In a subsequent letter, however, Lord Stair writes that having heard that the French were sending a body of Noailles' army to join Broglio in Bavaria, he had determined immediately to cross the Main.]

Hon. Charles Yorke to the Hon. Philip Yorke

[H. 12, f. 108.]

THURSDAY, June 21st, 1743.

...General Ligonier's¹ account in the Gazette I dare say pleased you. The following remarkable paragraph in the original was omitted in printing. You know he commends the disposition the King made as a very fine one ; then goes on thus :—

¹ Of the battle of Dettingen, II. 59, f. 212 ; also ff. 208-10 and II. 12, f. 110. John Ligonier (Jean Louis), afterwards Earl (1680-1770) ; a protestant French refugee ; distinguished himself greatly in the Marlborough campaigns and later in Flanders with the Duke of Cumberland, especially at Fontenoy ; taken prisoner at Laffeldt ; one of the greatest soldiers of his day and chief adviser in military matters to George II ; Lieutenant-General of the ordnance 1748-56, Master-General 1759-62.

" And when it was finished I believe both officers and soldiers were obliged to the enemy for attacking us upon equal terms. At first sight this may be looked upon as a most rash undertaking of the Maréchal De Noailles. But if we consider the measures he had taken, and that if he had succeeded the King's person would have been in imminent danger and his army have perished for want, I cannot but say it was a well-laid and executed scheme. The few that immediately saw the consequence were determined to conquer or perish, and His Majesty told a general officer next day that he saw his danger at once and had taken his resolution."—You will easily observe that this reflection was not fit for the profane, tho' the anecdote does honour to the King. Prince Charles¹ and Khevenhuller² were to be with His Majesty at Hanau on the 20th of this month, N. S. in order to concert measures with him. People are disposed to think that a closer pursuit after the victory would have effectually ruined the French army, and that something might have been done on their breaking up,—but what no man knows. My Lord had the other day a parcel of extracts from intercepted letters of French officers, giving an account of the action just after it was over to their friends. They speak of it in terms of the deepest concern; *cette honteuse affaire*; *l'infanterie anglaise a fait de[s]merveilles*, that the household troops will not be able *de lever la tête* any more this campaign; the old corps broken; one of them who writes most like a man of business says that the defeat was owing to the *sottise* of the D. de Grammont (nephew to Noailles), who, by some mistake in executing the Marshal's orders, drove the Marshal to the necessity either of going on with what the other had begun or absolutely disavowing him as one who had not obeyed orders; that the Marshal has appeared with so *triste* and melancholy an air since the battle, that he has no life himself, nor can infuse any spirit into a dejected army....

Yours,

C. Y.

Hon. Charles Yorke to Captain the Hon. Joseph Yorke, with the army in Germany

[H. 37, f. 15.]

TUESDAY, June 28th, 1743.

DEAREST JOE, ...

I sit down now full of joy for the success which the King's army has gained over the French....The rejoicings here have been universal. The King's behaviour was worthy of a great prince and will tend to conciliate the affections of the deluded part of his people, as well as silence the tongues of the malevolent....We all of

¹ Above, p. 302.

² Ludwig Andreas Khevenhüller (1683–1774), Commander of the Austrian troops operating against Bavaria.

us very heartily compassionate your watchings and fatigues but are comforted by your accounts of the health and spirits you enjoy.... It is the earnest and general request of your friends at Powis House, Wrest etc., that you would let us hear from you of your safety as soon as may be after any skirmish or action that happens, if it be only by six lines under your own hand.... This I am sure of, that he whom nature has furnished with personal valour, reason inspired with a sense of honour and his duty, and religion with a confidence in God, is, and must be, superior to every event that can befall him.... Adieu, dearest Brother, and be persuaded that I embrace you with the truest love and the most cordial esteem of your many excellent and amiable qualities.

Yours ever,

CHARLES YORKE.

Lord Chancellor to Capt. the Hon. Joseph Yorke

[H. 6, f. 34.]

POWIS HOUSE, Augt. 11th, 1743.

DEAR JOE,

I have read all your letters with very great pleasure, particularly by reason of the account they brought us from time to time of your being in such good health and spirits, which I heartily pray God to continue to you. Since my letter which carried you the news of your promotion¹, I have been so continually employed that I have had no time to write to you till now, my seals being just ended; but you have received assurances of my affection from your Mother and Brothers who tell me they have been regular in their correspondence. The signal victory at Dettingen, the glorious part His Majesty had in it, and the immortal honour gained by our countrymen filled our hearts with the utmost joy and exultation. Tho' the Guards were not actually engaged, yet you must comfort yourselves with the reflection that it happened from your being placed in that part, which was thought the post of danger and honour, and your friends at home are sufficiently consoled by your having come off with whole bones.... That God may preserve and prosper you in all things and bring you back to us with honour and safety is the constant prayer of

Your most affectionate Father,

HARDWICKE.

¹ To Lieutenant, April 24, 1743.

Archbishop of York to Capt. the Hon. Joseph Yorke

[H. 83, f. 3.]

BISHOP THORP, Aug. 11, 1743.

DEAR SIR,

...I give you joy of your very honourable safety when death was so busy round you; and whatever you may think, I dare say you won't lament your misfortune that you was not in the thickest of the battle. Courage should always be governed by prudence, and as a gallant man would not decline danger, so neither would he court it. The action was indeed a glorious one and has done more to help the King and his friends to the affection of the Public than the most just and prudent administration of twenty years. It has stopped the mouth of malignancy and falls in exactly with our natural pride and vain-glory. The contents of your letter were a sort of prognostic of the flight of the French, and in your enthusiastic contempt of them (which I love dearly in an Englishman) you seem to have prophesied, as some prophets are said to have done, an event which you really knew nothing of....I pray God protect and bless you,

Yours affectionately,

THOS. EBOR.

CHAPTER XII

THE CONTEST WITH AND DEFEAT OF LORD GRANVILLE

THE Duke of Newcastle, writing to the Chancellor on October 24, 1743¹, recapitulates the history of the last few years, and comments on the disastrous results arising from the present control of foreign affairs by the King and Lord Carteret.

At first the design had been to give every support to the Queen of Hungary as the sole means of preventing the power of France from subjugating all Europe, and to seek the collaboration of the Dutch. This policy had met with unanimous support in 1741. Parliament granted a subsidy of £300,000, and promised to protect the King's Hanoverian territories, if attacked; while the King undertook to send to the Queen's assistance 12,000 Danes and Hessians, and 12,000 English troops were assembled in Essex ready to embark at a moment's notice. Owing to the King's fears for his Electorate, intimidated by the approach of the French towards his borders, the whole of this great scheme was abandoned. Neither the Danes, the Hessians, nor the 12,000 English troops were sent. A Convention of Neutrality for Hanover was concluded with France and the King gave his electoral vote not to the husband of the Queen of Hungary, but to his enemy and rival the Elector of Bavaria, who was chosen Emperor. The King's ministers at home were powerless to prevent these fatal resolutions and such was the situation in which Sir Robert Walpole had to meet Parliament in December 1741. His retirement and fall were the consequence. Those ministers that remained, and especially the Duke and the Chancellor, still struggled on to obtain some support for the Queen of Hungary, and with this aim made overtures to Lord Carteret and Mr Pulteney, who now in 1742 joined the government. But ministers had still to reckon with the wavering policy of the King, whose alarms were aroused afresh by threats both from France and Prussia. A permanent treaty of neutrality for Hanover with France was, however, prevented by Lord Carteret. It was

¹ N. 16, ff. 184 and 202.

agreed to send 16,000 men to the Queen's assistance in Flanders, besides a subsidy of £500,000, including £200,000 which went to the King of Sardinia. The troops were placed in Flanders under Lord Stair, and everything was done to persuade the Dutch to join their forces with ours. In consequence of these measures the French were compelled to withdraw their army from Hanover, whereupon the King, freed now from anxiety on this account, declared his intention of reducing the Hanover troops, as being unable to afford the expense entailed. To prevent so disastrous a step the ministers took 16,000 of the Hanoverian troops into English pay on August 1, 1742. The loss of the Battle of Czaslow [gained by Frederick of Prussia over the Austrians, May 17, 1742] and the repeated efforts of the King brought about the Treaty of Breslau between the King of Prussia and the Queen of Hungary, the latter being obliged to cede Silesia, there being nothing on our side, either in writing or verbally, which could amount to anything like a promise to procure her a *dédommagement* elsewhere. On the advance of the army of Maillebois to relieve Prague [where the French had been left isolated by the Treaty], it was naturally everywhere expected that the English troops would march after him into Germany; but Lord Stair and the Dutch generals pronounced this impracticable and proposed instead the absurd scheme of marching to Paris. This proposal was at first relished by the King and Lord Carteret, but greatly disapproved of by the Duke and the Chancellor, and at a subsequent meeting it was finally dismissed. The summer was thus wasted in considering wild projects, and in October it was proposed that the army should march into Germany and winter there, in order to show a firm intention to support the Queen of Hungary and to place themselves in readiness for acting early in the spring. But all sorts of obstacles were immediately raised. The King was unwilling to expose his Hanover troops to so hazardous a march. The generals demurred, and Carteret, whose only object now was to make court to the King, lent his weight to the party of opposition. The Duke continually urged upon Lord Carteret the necessity of this movement. "If the King of Prussia," replied the latter, "should put his threats into execution, what would be the consequence of it?" Thus the whole campaign was sacrificed once more to the alarms for Hanover, and much of the subsequent misfortunes must be attributed to Lord Carteret's irresolution at this time. Meanwhile, Lord Stair, who was in command, marched across the Rhine on his own responsibility, and Lord Carteret considered it unwise to stop him. The King went abroad and the whole further conduct of Carteret had been entirely to serve his own private purposes. This was the cause of all the misfortunes and not the measure itself; and if the providential advantages gained at Dettingen had been in any way improved and followed up, France must certainly, before now, have submitted to reasonable terms of peace.

In the sphere of domestic politics the situation at the meeting of Parliament on December 1, 1743, is thus described by the Chancellor's eldest son, Philip Yorke, in the introduction to his parliamentary journal¹.

There were two circumstances which occasioned this session to open with great expectations and some uncertainty as to the event of it, viz. the opinion generally entertained of the King's partiality to his Hanoverian troops and the want of union in the ministry. The real grounds of the former (as far as I could collect) were by no means proportionate to the ill-humour and clamour which it had raised, the methods destructive of all decency and order employed to propagate it, and the malicious use to which it was applied by the enemies of the government. Some of the most considerable instances that were given of gross partiality were scandalously false, and those which one could less doubt of seemed rather the effects of indiscretion, hastiness or reserve in the King's temper, than of any formed design to affront or undervalue his English subjects. Yet I am far from justifying the whole of his conduct. A few more good words and kind looks bestowed upon the officers would have prevented much of the discontent which has spread itself amongst them. The treatment of the Earl of Stair was highly impolitic and unjust; for tho' the army was by no means unanimous in their sentiments of his conduct as a general, particularly in the premature passage of the Maine and the march to Aschaffenburg, etc., there was but one voice about his affability, generosity and skill in the fighting part of his trade; and many of the officers about him, who hoped to push themselves forward by his means and had attached themselves to his person, when they found their views disappointed by his sudden resignation, were the forwardest in promoting the cry against the Hanoverians²....

The other bad symptom which attended the opening of the Parliament was, as I mentioned above, the disagreement in the administration which was very near coming to an open breach within a few days of its meeting, and I doubt, even now, is but ill accommodated and may break out again when the present exigency is got over. Lord Carteret's reserved and contemptuous treatment [of] the rest of the ministry, whilst he attended the King in the army, may be set down as one principal cause of it. He corresponded with them but seldom, and then chiefly on points which the next Gazette might have informed them of as fully as his dispatches. Their advice was not thought worthy to be asked nor their concurrence in the private parts of business expected;

¹ Add. 35,337, f. 2.

² Appended is a précis of Lord Stair's letter of complaint and justification to the King resigning his command. See also II. 48, f. 164 on this point. The King was reported to have worn the yellow sash, the Hanoverian badge, at the battle of Dettingen, which caused great offence.

but he managed everything by himself, and was wholly intent on gaining, with the King's ear, the power and reputation of a Prime Minister and Favourite ; and the arts by which he worked were of a nature that ought not to recommend him to the confidence of a wise prince or to the good opinion of the nation ; for they were such as should with the one call his prudence in question, with the other his integrity.

A great diplomatic opportunity, indeed, offered by the victory at Dettingen, was lost by the King's infatuation and the minister's folly and self-seeking. Peace might then, in all probability, have been secured on the basis of the restoration to Austria of all territory, except that actually ceded to Prussia, and of the succession to the imperial Crown, together with the recognition of the present Emperor, the Elector of Bavaria, and the latter's reinstatement in his electoral dominions¹. In July, 1743, however, the King and Lord Carteret, without consulting the ministers at home, suddenly abandoned the whole policy of supporting Austria, and entered into negotiations at Hanau with the Emperor, the rival of Austria and ally of France, who on condition of making peace with Maria Theresa, was promised a subsidy of 300,000 crowns a month. Germany was to be united under the leadership of Hanover by means of British subsidies, and was then to dictate terms to France. These wild schemes, which ignored the King of Prussia and neglected British interests and which constituted a total reversal of British policy², were immediately vetoed by the ministers at home, when they came to their knowledge, and the negotiations were broken off, but not without raising natural fears at Vienna regarding British sincerity and loyalty ; and the Duke of Newcastle attributed all the subsequent difficulties with that Court to the suspicions now excited³. The demands of Maria Theresa were now raised, and the Treaty of Worms, concluded with Austria and Sardinia on September $\frac{2}{3}$, 1743, contained a clause which guaranteed the right of the allies to all territories they possessed or "ought to possess" by virtue of various treaties enumerated, but from which the Treaty of Breslau was significantly omitted. Great Britain paid to the King of Sardinia £200,000 a year in consideration of his support of the Austrian cause in Italy. The whole responsibility for the sacrifices of territory made by Maria Theresa was thrown upon Great Britain ; and a secret declaration, exacted by the Queen of Hungary,

¹ H. 48, f. 164.

² *Parl. Hist.* xiv. 354; H. 5, f. 102.

³ Below, pp. 337, 339, 359.

engaged the King to make no peace but in concert with his two allies and to obtain for Hungary "le meilleur dédommagement qu'il serait possible." The English ministers who knew nothing of these engagements till they were sent for their ratification, disapproved strongly of Lord Carteret's diplomacy, which was clearly, instead of effecting peace, involving the nation still further and still more unprofitably in the European war. But they hesitated to refuse their assent when matters had been carried so far, and to sacrifice the whole Austrian alliance; and deciding between two evils, they chose what they believed to be the least. In the Chancellor's words, as they could not change it, they must "endeavour to palliate and restrain the bad effects¹." The consequences, however, were disastrous. The treaty was naturally interpreted by the King of Prussia as a renewal of the Austrian claims upon Silesia and Lord Carteret, in following and serving the King's jealousies of Frederick, had gone so far as to involve British diplomacy in the Russian schemes for the dismemberment of Prussia². Frederick took his measures accordingly, and Great Britain once more lost his powerful alliance. In May, 1744, by the Union of Frankfort, he gave his support again to the Emperor; in June he resolved to return to his alliance with France and shortly afterwards, in August, recommenced hostilities against Maria Theresa. On October 25, 1743, moreover, the Treaty of Fontainebleau was made between France and Spain.

Meanwhile the enormous concessions made to Austria were declared still too little. The Queen of Hungary complained that the promises of support which she had obtained were not sufficiently explicit. She desired an assurance of the permanent continuation of the subsidy. Further secret articles were accordingly agreed to by Lord Carteret on October 3, 1743, by which Great Britain undertook to pay subsidies as long as the Court of Vienna thought them necessary, and promised to execute those "assurances qui ont été données à sa Majesté la Reine à l'occasion de la Paix de Breslaw touchant une juste satisfaction pour le passé et la sûreté pour l'avenir." These last extravagant concessions of Lord Carteret were however defeated, chiefly by the firmness and the good sense of the Chancellor, and were never submitted to Parliament, the Queen receiving only £300,000 for the actual year³.

¹ p. 340. ² *Buckinghamshire Corresp.* (Camden Soc. 1900), Introd. i. 20.

³ Coxe's *Pelham*, i. 74 sqq., and II. 59, ff. 224 sqq., 241, 267, 273, 282, 289 sqq.; and N. 16, ff. 290 sqq., and below, p. 339.

"A convention, subsequent to and explanatory of the Treaty of Worms," continues the second Lord Hardwicke in his *Journal*, "to which he had gained His Majesty's consent abroad, gave the rest of the Ministers a fair and just opportunity of expressing their disapprobation of his conduct. They thought he had by that Treaty engaged the King too closely with the Q. of Hungary. In one article, as I was informed by a pretty good authority, certain verbal assurances not specified in the body of it, nor sufficiently explained by Lord Carteret, between whom and Baron Wasner¹ they had passed, were confirmed; by another the Queen of Hungary was promised an annual subsidy of £300,00[0], as long as the war lasted or the necessity of her affairs required, of which necessity, as the article was at first drawn, she might pretend to be the sole judge². The debates rose so high upon this occasion, that it was reported the Lord Chancellor refused to put the Seal to the Convention³, as it then stood, and that Lord Carteret went so far as to declare that the King should affix it himself. However this may be, it is certain the matter was warmly agitated in several long meetings; but at last it was finally decided in favour of the old part of the ministry by a majority of 5 in the Cabinet Council. As divisions in that place are not frequent and scarce ever come to the knowledge of the public, I shall put down the names of those who voted on both sides of the Question in the debate above mentioned.

For the alterations

L^d Chancellor
 L^d President
 D. of Newcastle
 D. of Dorset
 D. of Richmond
 D. of Montagu
 D. of Argyle rather doubtful
 D. of Grafton
 Mr Pelham.

Against alterations

Lord Carteret
 L^d Winchelsea
 L^d Tweeddale
 Duke of Bolton.

The opposition which Lord Carteret's measures had met with was in general agreeable to the public, as it was thought a right and an honest one; and it was calculated to prevent his gaining too great an ascendant in the King's Councils."—

NOV. 24TH, 1743. MINUTES TAKEN AT THE CABINET COUNCIL⁴.

Lord Chancellor delivers his opinion against ratifying the Convention with his reasons at length and concludes to advise his Majesty not to ratify this Convention as signed, but that His Majesty will be pleased to cause proper instances to be made

¹ Austrian Ambassador in London.

² See below.

³ A statement confirmed by Pitt. Add. MSS. 35,337, f. 37, and *Parl. Hist.* xiii. 473.

⁴ II. 522, f. 59.

at the Court of Vienna that a new treaty or convention may be substituted in lieu thereof for paying to the Queen of Hungary a subsidy of £300,000 for the ensuing year.

[His opinion is further formulated in another memorandum¹:]

1. *General.* Opinion to carry on the war with vigour; if the object fix'd, plan can be settled—if the Dutch will come in to take any reasonable share.

2. If this can't be, still of opinion this winter to do our utmost to enable the King to procure a good peace with arms in his hands, with the same strength of arms which he had the last year.

3. The greatest obstacle to measures of this nature in England has been when the People have seen that onerous subsidiary engagements are enter'd into, which may bring almost the whole load of war upon this nation, without any ally taking their proper share, and that for such an extent and duration as has made the Parliament boggle in giving supplies—worse for the King—worse for the Queen of Hungary.

[Going into *particulars*, he objects to the Convention which grants a subsidy of £500,000 per annum [including the £200,000 to Sardinia], and not for a certain term but *tant que la guerre et le besoin durerá*—which depended entirely on the Queen of Hungary, the King engaging by the Sardinian treaty not to make peace without her. The Court of Vienna would think itself master of the war and the negotiations for peace. (The Queen had now recovered all her dominions except Silesia, yielded by treaty.)]

Conclude for laying this aside and coming into a new convention for a single subsidy for the ensuing year.—

Duke of Newcastle. Not always the reason to do a thing, because inconveniences may arise from the not doing it.

The subsidy to the King of Sardinia is for hazarding his country for the sake of the Queen of Hungary.

This is given to the Q. of Hungary to act for her own sake.

There are reasonable hopes that the Court of Vienna will, upon strong instances made to it, yield to accept an annual treaty; since upon the strong memorial of Lord Carteret, she yielded to the Sardinian treaty, notwithstanding her former obstinacy.

A subsidy of £300,000 p. ann. for a general indefinite continuance is a great and tempting thing at the Court of Vienna....

Lord Carteret. Approbation of the treaty *in extenso* and then there will be found people who will lend upon it. [Admitted that Great Britain with Vienna alone were not sufficient to humble France and that other allies must be sought. Vienna must be compensated for her loss of Silesia, solemnly promised to her, and this could only be by Bavaria, for which the Emperor in his turn must have Naples.]

Mr Pelham. Against ratifying—if ratified and Parliament disapproved it, the consequences would be dangerous.]

Lord Carteret. I can't plead ignorance. I saw the *pro* and the *con.* If the King of Sardinia had been lost, the whole

¹ f. 93.

had been lost. If the Queen of Hungary will run to her own perdition, it will be our perdition....We are connected by national interests, and must bear patiently.

She offer'd the Cardinal [Fleury] to divide her possessions in Italy and the Netherlands between Spain and the Elector of Bavaria.

I would not but have done what I have if my life had been at stake.

If you are overruled by the Parliament, 'tis the Constitution ; but if the King is overruled by his administration, you will carry nothing in Parliament.

I am out of the case, but what a figure will the King make ?

A thing extorted with the worst grace in the world, but you must save the Court of Vienna from themselves.

It don't depend on you whether you will make war. If you won't, France will and is collecting all her strength.

The honour of the English nation is now higher than ever it was since my Lord Marlborough's time.

All the arguments are only prudential, the thing not *malum in se*.

The Queen of Hungary will say that the King and I combin'd to cheat her.

If I was of opinion against signing a Treaty, yet when signed, I would be for ratifying it.

It is an act.

Illegality is one thing but independence another.

I entrench myself within the necessity and the consequences of rejecting it.

Finally, however, on December 3, 1743, Lord Carteret, whose power had already received a severe blow in August by the appointment of Henry Pelham as First Lord of the Treasury¹, was compelled to send a new dispatch to Sir Thomas Robinson, the British Minister at Vienna, with instructions and arguments in conformity with the opinions of the majority in the Cabinet².

These extravagant projects were therefore never presented to Parliament. But the resolution and abilities of the ministers were sufficiently taxed in defending the rest of their foreign measures. In the Commons the Chancellor's eldest son seconded the address of thanks to the King for the Speech³, and was answered by Pitt, who strongly attacked the ministerial policy, and in disparaging the late victory declared that "the ardour of our British troops was restrained by the cowardice of the Hanoverian⁴." He

¹ Above, p. 281.

² Coxe's *Pelham*, i. 110; H. 59, f. 301; N. 16, f. 292.

³ Henry Pelham in congratulating the Chancellor on his son's performance writes : "It was without flattery one of the best and most proper that I have heard on the like occasion." H. 75, f. 17.

⁴ *Parl. Hist.* xiii. 150 sqq. and 135-8, where Philip Yorke's account of the debate is printed.

continued his denunciations on December 6, on the occasion of an address to remove the Hanoverian troops and declared, though called to order by the Speaker, that the King was "hemmed in by German officers and one English minister without an English heart," and that "it was the duty of Parliament to snatch him from the gulf where an infamous minister has placed him, and not throw paltry flowers on the edge of it to conceal the danger!"

In the Lords the great subject was discussed on December 9, when Lord Carteret replied to the criticisms of the Opposition in one of his most brilliant and most audacious orations, distinguished by its "strain of confidence," says Philip Yorke, to whom we owe the best account of the debate, and "rhodomontade." He gave the House a pompous description of the vanquished Emperor's demand at Frankfort for protection from the King, *iacentem lenis in hostem*. Lord Chesterfield's discourse was also much applauded, especially one "flower," when, in speaking of the discontents in the army which succeeded the general joy for the victory of Dettingen, he exclaimed, "My Lords, the triumphal laurels yet green upon their brows, were soon overshadowed by the gloomy cypress²."

The Chancellor's speech did not soar to such heights, and turned chiefly upon the impossibility of replacing the Hanoverians in time, and upon the impropriety of grounding a resolution of the House upon vague rumours, partialities and jealousies. It seemed to him very extraordinary to advise His Majesty to disband half his army in the middle of a war. The only effectual method of restoring peace was by enabling the Queen of Hungary, not only to defend herself, but to carry the war into French territory³.

The topic was renewed again and again in the Commons, Mr Pitt, records Philip Yorke, speaking "rather to raise the passions than convince the judgments of his hearers, which he is too apt to do, though in that way I never heard anybody finer⁴." The hostility shown against the Hanoverians became so intense that the Duke of Newcastle began to think of yielding⁵, or at least of maintaining them only on the condition that the King remained in England, or that the English troops should serve separately; and it was largely in consequence of the resolute support given at this crisis by Lord Orford, who came to town and used all his influence on their side, that the

¹ P. Y.'s account, *ib.* 141.

² *Ib.* 274.

³ *Ib.* 343. "I am sorry I did not take notes of my Lord Chancellor's speech," writes his son; "to give an account of it upon memory would be to do it injustice. It was certainly a judicious and masterly performance and gave a general satisfaction." *Ib.* 278.

⁴ *Ib.* 465.

⁵ p. 341.

ministers remained firm¹. On January 27, 1744, the question once more came before the Lords, but the Chancellor interrupted the debate as contrary to the rule which forbid the revival of the same motion in the House the same session. The charge of "quibbling," made by Lord Gower, he answered with a dignified rebuke to the "intemperate zeal" which had inspired such expressions, neither just nor decent. "My regard for him inclines me to wish that such an aspersion had been thrown rather by any other person, but my consciousness of my own integrity hinders me from feeling any pain from it²." On the 31st, the Opposition returned once more to the attack.

But these domestic disputes were suddenly interrupted in February by the news of a threatened French invasion of England itself, under the command of the redoubtable Maréchal Saxe in the interests of the Pretender. A powerful French fleet anchored off Dungeness Point, and protected transports advanced with 15,000 men from Dunkirk. The Government acted with promptitude. Large supplies were obtained from Parliament; the Habeas Corpus Act was suspended for two months; troops were recalled from the Netherlands, the militia was raised in Kent, and the defences on the Thames and Medway were strengthened³.

A bill also was brought into Parliament making it treason to hold correspondence with the Pretender's sons. On April 27, 1744, the Chancellor supported two further clauses in the House of Lords, the first attainting the Princes in case they arrived in England, the second extending the forfeiture of the estates of those guilty of treason from the life of the Pretender only to that of his sons⁴. The last clause was much opposed on the ground of the cruelty to the innocent posterity of the guilty parents involved, the Duke of Bedford employing this argument, on the strength of his descent from the unfortunate and regretted Lord Russell. It has generally, but too hastily, been condemned by historians as vindictive. The Young Pretender, it must be remembered, had now superseded his father to a great extent as leader of the Jacobites and of the projects against England. Moreover at this dangerous crisis, which involved the whole national existence, it was incumbent upon ministers to employ every possible defence against rebellion not absolutely contrary to right and justice. In the actual circumstances

¹ P. Y. in *Parl. Hist.* xiii. 467.

² *Ib.* 506, 517, 532, 534.

³ P. Y.'s *Journal*, *ib.* 641, 668, 671; Coxe's *Pelham*, i. 140; A. Lang, *Hist. of Scotland*, iv. 444.

⁴ *Statutes at Large*, xviii. 274.

the clause by no means appears unduly severe. The Chancellor supported it with illustrations drawn from the Common Law, ancient German institutions and Roman Law, and showed the inaccuracy of the contention that such enactments of forfeiture were originally passed under arbitrary governments. The clause provided a strong deterrent from rebellion; for many men would risk their own lives and fortunes with alacrity but would shrink from such adventures, if they entailed the ruin of their families¹. Besides, the Chancellor went on to say, it would provide a useful excuse for those who were partly committed, not to join further. "No man will acknowledge himself to be a coward; but no man is afraid of saying he has a great regard for his wife and children." As to the penalty falling upon the innocent, children must suffer by the crimes of their parents as they do by their misfortunes, and as they profit by their success. Indeed, there is no natural right by which a child succeeds to his parents' lands; for if there were, bastards would have the same rights as legitimate offspring. Nor could the children of traitors by any legal right inherit; for by the laws of the country their right is qualified by the condition that their father has died in allegiance to the King. Lord Chesterfield had drawn a very moving picture of the distress of children disinherited by the crime of their parents, but he might have employed his genius and eloquence in displaying the horrors and miseries of conspiracies, rebellion and civil war.—"The subject afforded great variety of argument on both sides," wrote the Chancellor's eldest son. "Patratus moved the clause in the House of Lords, and both in opening it and replying to Lord Chesterfield got great credit." According to Charles, his father spoke "with a very masterly eloquence. There were no performances in either House comparable to his upon these points²." The clauses were finally passed in the Lords without a division, and on May 3, after considerable opposition in the Commons, by 185 votes to 106³.

The Chancellor's policy was supported at the same time by a very able tract entitled "Considerations on the Law of Forfeiture for High Treason" (1745), written by his son, Charles Yorke, which,

¹ The Chancellor was probably thinking of the passage in Cicero's letter to Brutus (Tyrrell's and Purser's *Corresp. of Cicero*, 1899, vi. 246), "Nec vero me fugit, quam sit acerbum parentum scelera filiorum poenis lui, sed hoc praeclare legibus comparatum est, ut caritas liberorum amiciores parentes reipublicae redderet." See also Blackstone in Stephen's *Commentaries* (1903), iv. 404.

² H. 15, f. 46; H. 37, f. 21.

³ *Parl. Hist.* xiii. 704, 709, 786, 840; L. Dickens and M. Stanton, *An 18th Century Correspondence*, 100.

though the authorship was concealed, made a great impression, went through several editions and drew some rejoinders. He began by acknowledging that the temper of the English law, genius and constitution is to dislike severities. But to the argument that the innocent by this law suffered with the guilty, he replied that it was also so in nature and was inevitable. The gifts of nature should not, through a parent's offence, be taken away, and such were life and liberty; but property and honours were the gifts of society. He showed by various arguments that the right of inheritance is one conferred by society and limited by various laws and not a natural right. The object of the laws of succession was, not the protection of children, but the protection of society itself and the prevention of disorders. A tenant in fee simple for example and a tenant in tail might alienate their estates from their children, and the law would not break into the natural law which allows freedom of alienation. Examples of the new law could be found in almost all other governments, in that of the Jews, of Greece, of Rome in the best times of the Republic, where the maxim was *Qui civitatem amisit, haeredem habere non potest*, in the Saxon, in the modern law of Germany, where the ban of the empire was executed, in the Netherlands, in the feudal system and in the Common Law of England. Finally the writer, emphasizing the subordination of private to public good, concluded by urging "every private man to reflect that to love your country comprehends and ennobles all the private relations and partialities of life; and whatever tends most effectually to perpetuate the Laws of it, tends at the same time to perpetuate his own name, wealth, honours and posterity¹."

Meanwhile all risk of immediate invasion had passed away. As in the case of the Armada, the enemy's fleet had been dispersed by a great storm. *Flavit vento et dissipati sunt*. But the French ships escaped without defeat. The same month, on February 14, Admirals Mathews and Lestock, refusing to cooperate, owing to petty jealousies, failed completely in their attack upon the French and Spanish fleets off Toulon, a deplorable instance of the lack of national and professional spirit, which was a cause of great anxiety to the government². The military prospect in Flanders did not contribute any ray of cheerfulness. The allies confronted the

¹ See also H. 56, ff. 27, 29, 40.

² Philip Yorke's Journal in *Parl. Hist.* xiii. 683. For papers referring to the subsequent inquiry see H. 3, ff. 53-69 from P. Y.'s accounts, and a description of the battle, H. 550, f. 131.

French with a disadvantage of numbers, being only 50,000 to the French 80,000, the Austrians and Dutch having failed, as usual, to bring up their quota ; and the enemy captured town after town without any real effort being made to resist their progress. No movement even was attempted when a large part of the French army was drawn off to oppose Prince Charles of Lorraine, who was threatening Strasburg. The troops remained in a state of miserable inactivity, and mutual recriminations and angry disputes between the English and foreign generals—General Wade, the Duc d'Aremberg and the Count of Nassau—took the place of military movements. The troops, who were undergoing all the sufferings of war without enjoying any of its glories or excitements, became more and more discontented ; and their officers found themselves to their disgust, instead of winning fame, incurring every day further disgrace¹. The letters and journals of Joseph Yorke, a lively and ambitious young officer, now aide-de-camp to Marshal Wade, the British Commander-in-Chief, are filled with lamentations at the gloomy prospect ; and a vivid picture is given of the jealousy, obstinacy and incapacity, as well as of the divergence of aims, of the allied commanders, which clogged the movements of the army and removed all hope of any substantial success².

The return of George Anson, soon to become the Chancellor's son-in-law, on June 14, 1744, after his famous voyage round the world, during which he sacked Paita, destroyed much Spanish commerce and captured the great Spanish galleon from Acapulco ; and the procession through London a few days afterwards, when the treasure, amounting to £500,000, was borne in triumph through the city, was the only event which lightened the public gloom³.

The ill-success and ill-management of the war and of the negotiations, together with the renewed attack upon Austria by Prussia, constituted a dangerous crisis of affairs, and it was felt by the Pelhams and the Chancellor impossible to submit any longer to the control of foreign affairs by Lord Granville, as Lord Carteret had now become by his mother's death⁴.

" Towards the conclusion of the autumn of 1744," writes the Chancellor's son in his *Journal*⁵, " the division between the earl of Granville and the rest of the ministers was grown to that height as

¹ p. 360; Coxe's *Pelham*, i. 158.

² See below, pp. 343, 352, 358, 361, and II. 545, f. 133, and II. 903, which includes his narrative of the campaign ; for his orderly books see II. 904-9.

³ pp. 346, 349.

⁴ pp. 344-5, 353, 357, 360.

⁵ Add. 35, 337, f. 82.

to render it impossible for them to cooperate any longer in the King's service, and it was manifest that the public interest suffered not a little by their disunion as to measures abroad and contests for power at home; with the blame of which he must be charged by all reasonable men, who, blinded with ambition and vanity, provoked contradiction by rash and impracticable counsels, and began the struggle for superiority in the closet. Lord Granville, ever since his return out of Germany, had taken all opportunities to lessen the credit of the old ministers and alienate their master's affections from them with a view, either of compelling them to act in a slavish subserviency to himself, or to quit those places they could no longer keep with honour¹. In the management of the war, which from the King's opinion of his skill in foreign affairs was carried on by his advice, there appeared in too many instances neither contrivance nor wisdom in our designs, nor concert with our allies, nor despatch nor method in our preparations, nor vigour in the execution of them². At meetings on business he exposed himself by the frantic sallies of an imagination heated with claret, and a behaviour sometimes overbearing and insolent, at other times complaisant, fawning, never cool and ingenuous. To the Chancellor he was particularly liberal of his professions, yet was secretly undermining him and (if the other was not quite misinformed) had made an actual offer of the seal to my Lord Chief Justice Willes*.

"Such were the terms on which he stood with his brother ministers. By the nation in general he was held in abhorrence, not only from the character he had acquired of insincerity and falsehood, but from an opinion taken up that he was desirous of prolonging a war, to the conduct of which he had shewn himself very unequal, and that, instead of checking and discountenancing the King's unhappy partiality to his electoral interests, he had from private views, raised and fomented it to such a degree, as greatly to lessen the affections of the people. The public ill humour was increased by the inactivity of the campaign in Flanders and the unlucky alteration in Germany, from the King of Prussia's infamous breach of faith. It brought back to their minds in how unaccountable a manner the success at Dettingen had been thrown away and the emperor's overtures neglected the last summer, when this noble lord was in the fulness of his power, the only English minister at the campaign. When Lord Chancellor came to town in September

¹ Cf. H. Walpole (*Letters*, i. 393), "The secretary, since his return, has carried all with a high hand and treated the rest as ciphers....He is never sober: his rants are amazing, so are his parts and spirits."

² Elsewhere Philip Yorke writes: "He was an overbearing, presumptuous minister...; in the Dettingen campaign, either through his own or his Master's fault, he managed but awkwardly; but truth obliges me to say that the war was not better conducted on the Continent after he was forced out, nor could Lord Chesterfield bring the Dutch up to our proportions, and the Duke of N. himself, under the wing of a military prince of the blood, grew as fond of the war abroad as Lord Granville himself. His brother and he almost came to a rupture about it in 1749 or 8. H." H. 60, f. 64. See below, chaps. xviii., xix.

* [Note in apparently the Chancellor's hand:] I think this fact very doubtful at best.

1744, a resolution was taken by him and his two great friends, the duke of Newcastle and Mr Pelham, after maturely weighing the errors which had been committed in the management of the war, and the difficulties with which the vigorous prosecution of it would be attended, to put things if possible on a better footing against another year, and to begin by getting rid of so dangerous a minister as the earl of Granville. It was thought advisable that the first step in this good work should be to lay before the King a strong and clear representation in writing on the state of his affairs, which might afterwards be enforced in private audiences, and the finishing stroke put to it by convincing him of the necessity he lay under, for the benefit of his affairs, of parting with his favourite servant.

"The Chancellor undertook to be the draftsman of this paper¹; and when it had received the approbation of the two great persons above mentioned, and the earl of Harrington, who were by no means sparing in their compliments to him upon the performance, it was communicated to the rest of the cabinet, viz. the dukes of Devonshire, Dorset, R[ichmon]d, Argyle and Montague, and they all engaged to support the measures recommended in it with all their influence....[It] was allowed by all who saw it to be the composition of an able head and an honest heart. The lord Bol[ingbroke]² in particular, after reading it, returned it to the Chancellor with this short testimonial in its favour, 'My Lord, I will seal it with my blood.'"

This paper, wrote the Duke of Newcastle to the Duke of Grafton on September 28³, "has had the most universal approbation from all our friends that have yet seen it....Tho' I am very partial to the author, I really think I never saw a more clear, wise, judicious deduction and representation of our present situation than this is; and the remedies or future measures to be pursued more honestly and plainly laid down....As soon as Lord Chancellor had finish'd it, (which was in one day, and Lord Harrington says he believes never such a paper was ever prepared before in one day) we had a meeting of our friends then in town; and we agreed to defer the delivering it till Lord Chancellor should come to town, on the 11th, that he may be here to back it."

"DRAFT OF A PAPER RELATING TO THE STATE OF THE WAR⁴.

"Delivered to the King by the Duke of Newcastle in the name of Lord Chancellor, Lord President, himself and Mr Pelham, Nov. 1,

¹ It was written out on September 19 (N. 18, f. 315). His letter forwarding it printed in Coxe's *Pelham*, i. 176.

² See below, p. 377. ³ N. 18, f. 329; Coxe's *Pelham*, i. 177; also N. 18, f. 347.

⁴ H. 522, ff. 63 sqq., 264.

1744, at about $\frac{1}{2}$ an hour after two o'clock, and sent back by His Majesty to Newcastle House, under a cover seal'd up, about $\frac{1}{4}$ before four the same day.

"At the time of delivering it, his Grace acquainted the King that the Duke of Dorset, D. of Grafton, D. of Richmond, D. of Devonshire, D. of Montagu, D. of Argyll and Earl of Pembroke had been made acquainted with the contents of this Paper and entirely concurr'd in opinion with it.

"The transactions and events of the current year and the near approach of the meeting of the Parliament have induced several of the King's servants, out of duty to His Majesty and concern for their country, seriously to consider of the present critical situation of affairs and of the principles and methods whereby, in their humble apprehension, His Majesty's service may be carried on and supported in the next session.

"The great change¹, which has lately happened in the posture of affairs abroad, makes it necessary to look back to the principal foundations, upon which it was thought that measures of vigour and force might reasonably be pursued by Great Britain for the defence of the House of Austria and the maintenance of the balance of Europe, with any probability of success.

"Two points were generally allowed to be essential :

"1st. That the King of Prussia should be detached from the system in which he was then unhappily engaged, and a reconciliation be effectuated between him and the Queen of Hungary.

"2nd. That the States General should be prevailed on to execute the engagements of their treaties and to make *cause commune* with Great Britain.

"Of both these being obtained, strong expectations were given. The first appeared to be absolutely requisite on account of the great power of the King of Prussia in Germany and the numerous armies he had on foot, which, when joined with France and her other allies against the Queen of Hungary, amounted to such a formidable strength as was judged almost impossible to be balanced."

It was thought, the memorial continued, that this had been obtained by the Treaty of Breslau; but now the King of Prussia had thought fit to break through all his engagements, to invade the Queen of Hungary's dominions and had captured Prague, being joined as well by the King of Sweden and the Landgrave of Hesse

¹ *i.e.* the renewed attack of the King of Prussia upon the Queen of Hungary.

Cassel. An entirely new state of things was the result of this invasion. The Arch-Duke Charles had been obliged to retire from Alsace, France was freed from all pressure on that quarter and at liberty to use her forces in other enterprizes and to crush the allied army in Flanders. The entire scheme of foreign policy had broken down. What resources were left? As to Russia, the Czarina had indeed promised the 12,000 men stipulated by the defensive treaty of 1742¹, but their arrival before the next campaign was unlikely and their employment would be limited to defensive measures and restricted by the power of France at that court. As to Saxony, though that state by treaty and also by interest was strongly engaged with the House of Austria, yet its forces were small, and these joined with those of the Arch-Duke Charles would be scarcely a match for the armies of the King of Prussia. So much for the first "grand foundation." With regard to the second, the alliance with the Netherlands had hitherto proved of very small assistance. Some steps had been taken in preparations for war, always, however, falling short in point of time and point of force. War had not been declared against France by the States, although such an act, after the declaration of war by France against England², was beyond question *casus foederis*, and there was no treaty between England and Holland settling the proportions of forces and money to be supplied by each power. Holland was doing practically nothing, while England had 40,000 men in the field and vast fleets at sea, and this year paid subsidies to different princes to the amount of almost £700,000³.

It was impossible to go on in such confusion and uncertainty, with no general object, every state pursuing its own ends and the common cause being continually neglected and sacrificed, while the whole burden of the war fell upon Great Britain; the demands for money also from Parliament increased every year and would exceed the ability of the already impoverished nation to satisfy. It was therefore recommended that the King should immediately (as some of his ministers had advised before, but their counsel had been neglected) come to a clear explanation with the Netherlands⁴

¹ Between England and Russia.

² The formal declarations of war between the two countries had been made after the attempt at invasion this year.

³ In June 1745 the sum was reckoned as £1,178,000 by the Duke of Newcastle; see below, p. 386.

⁴ This was opposed by the King and Carteret, but in May 1744 a project of alliance was proposed to the States by the Duke of Newcastle; see below, p. 386.

and with his other allies, demanding especially the declaration by Holland of war against France, and the full performance of their treaties with England, and settling the proportions of forces and of subsidies and the chief command. The next campaign might then be undertaken *totis viribus* and under more hopeful conditions¹. If, however, such a system could not be formed and if Holland especially, which was now the only possible ally left to Great Britain, refused to declare war and throw in her lot with the common cause, then, as a general war could not be made upon any practicable system, it was submitted whether it would not be wiser forthwith to propose to Holland to concert with Great Britain a general peace. If both these schemes should fail, it would then be necessary to consider another plan for the defence of Great Britain.

"The Duke of Newcastle," continues Philip Yorke's *Journal*², "delivered this paper to the King, the 31st of October [November 1st], but whether he was displeased with the contents or did not immediately see the drift of it, he returned it to the Duke in a few hours, without any signification of his thoughts upon it. But the framers of the memorial were determined not to let it drop so easily and began in their private audiences to explain and enlarge upon the advice it contained³. When the most delicate point of all came in question, which was the dismission of Lord Granville, many difficulties occurred and an uncommon degree of tenderness and esteem was expressed for him. Nor is it to be wondered at, since he had found out the art of governing the King by his hopes. It was frequently repeated with warmth to the Chancellor, who had the principal share in this intrigue, 'You would persuade me to abandon my allies; that shall never be the obloquy of my reign, as it was of Queen Anne's; I will suffer any extremities rather than consent to it.' The meeting of the Parliament drew near whilst this affair hung in suspense, and as everybody saw it must be determined before the opening of the session, their expectations were much raised and their sentiments divided as to the issue of the struggle; but in their wishes they were perfectly unanimous and dreaded nothing so much as a compromise. At last the King said he would have his Speech drawn and judge from the turn of it whether he approved the measures. The Chancellor, in obedience to his commands, brought one and left it with him, and the next time he went into the Closet, his Majesty produced it transcribed from beginning

¹ A précis of this paper is given by P. Yorke (Add. 35,337, f. 83) who adds a footnote: "Such a concert, tho' not adequate to our expectations, was afterwards concluded with the States by Lord Chesterfield and Mr Trevor [in the Quadruple Alliance of 8 January, 1745; see below, p. 386]. The subsequent campaigns were ushered in by Treaties of this nature which none of the Allies, except G. Britain, ever punctually fulfilled."

² Add. 35,337, f. 84; see also *Marchmont Papers*, i. 69, 76, 82.

³ p. 366.

to end in his own hand, which trouble, it was supposed, he gave himself for the sake of inserting two or three additions suggested by his favourite. The only one of importance he consented to leave out, when the ill consequences that might attend it were laid before him. It was, if I remember right, a declaration to Parliament that he would agree to no peace till all his allies had been satisfied, and came in after the words about not abandoning them, which are in the printed speech¹. In the same audience, which was on Friday, the 23rd [November], the King [who had meanwhile summoned Lord Orford to town on November 7, and been decisively influenced by the latter's strong advice not to persist in his support of Lord Granville²] acquainted the Chancellor that Lord Granville should resign; but this was not resolved on till the latter had tried every expedient to save himself and, as his last resource, proposed *carte blanche* to the opposition.

"His Royal Highness, who unfortunately had no point of union with his father but a fondness for Hanover and an attachment to Lord Granville, first offered himself as a mediator between the contending parties in the ministry. When that did not succeed, he set on foot a negotiation with the other side by a message to Chesterfield, Gower, and Cobham, to this effect, 'that as the differences in the administration were grown to that height through the unreasonableness of Granville's enemies, that some changes must necessarily ensue: if they and their friends would come in and support the said earl, a general removal should be made of the old court, and the whole Broad Bottom (as it was called) provided for without reserve.' This overture was seconded by a message from Granville himself, and hopes were thrown out to the Tories of a dissolution of the Parliament, but to no purpose; for the persons applied to returned a short answer that they could not think of accepting any terms whilst Granville continued in power³. The Treaty being thus abruptly broke off, this hunted minister, at present an outcast from all parties, was obliged to resign [November 24], having first laid the foundation of future merit and favour by giving assurances that himself and his friends would heartily concur in supporting the war, and even outgo the ministers on that head. The seals were immediately given to Lord Harrington⁴, who had acted in a perfect concurrence with the Chancellor and his friends during this transaction, whose experience in foreign affairs was useful in business, and at the same time his person very acceptable in the Closet."

¹ *Parl. Hist.* xiii. 981; pp. 368 sqq.

² Coxe's *Sir R. Walpole*, i. 741, iii. 602; and *Lord Walpole*, ii. 90 sqq.

³ Cf. *Marchmont Papers*, i. 88; *Caldwell Papers*, pt 11. i. 67.

⁴ William Stanhope, first Earl of Harrington (1690?—1756), had been long in office under Walpole as Secretary of State when he supported the King's Hanoverian policy and gained great favour. On Walpole's fall he became President of the Council, and now joining the Pelhams and the Chancellor in their opposition to Lord Granville, replaced the latter on his dismissal.

CORRESPONDENCE

[H. 59, f. 249.]

[On August 22, 1743, the Duke informs the Chancellor that he has received another letter from Lord Carteret, concerning the transactions with Vienna, which Court viewed the negotiation with the Emperor with considerable suspicion. A successful attempt was now made to gain over Lord Harrington, who had the advantage of possessing the King's confidence, and had hitherto followed the royal Hanoverian partialities. The Duke forwarded also "a very good letter" which he had received from Lord Orford.]

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 251.]

WHITEHALL, Tuesday night, 11 o'clock.

[Endorsed by Lord H.
"Aug. 23, 1743, at night."]*

MY DEAR LORD,

This evening a messenger arrived from the army with the enclosed agreeable but most surprising news. I send you all I know of it, and beg you would send the letters back to me by the messenger, when you have read them. My friend Carteret's letter to my brother is a manly one, and that to me in many parts of it has the appearance of a kind one. It is plain we have got the better of him, and our Master has been *surprisingly* firm; but what has produced this, just at this time, I am yet at a loss to conceive. The use we are to make of it and the answers both private and public will require great and immediate consideration....I beg you would dine with us tomorrow at Lord Lincoln's, where we may have some discourse....

I am ever yours

HOLLES NEWCASTLE.

[The Chancellor sends his congratulations on the "happy event" the next day. (Coxe's *Pelham*, i. 88.)]

[H. 239, ff. 156 sqq.]

Young Mr York, a son of the Lord Chancellor [writes Mr Hume, the Commissary to his brother, on August 27, N.S., from Mainz], lies here very ill and not without great danger; he has a slow fever which makes him very low-spirited, and the more so as he finds the army marcht away this day, and he and some more sick people left in this town. I am told about noon this day that he has fallen into a breathing sweat which gives some hopes that he may soon recover.

* N.B. This was upon Mr Pelham's being made Chancellor of the Exchequer, when Lord Bath wanted to be at the head of the Treasury. H.

Lord Chancellor to Capt. the Hon. Joseph Yorke at Mainz

[H. 6, f. 36.]

POWIS HOUSE, Aug. 25th, 1743.

DEAR JOE,

Your mother and I were much alarmed today by hearing accidentally that you are confined by sickness at Mentz. I suppose you avoided letting us know for fear of giving us concern but, tho' that is kind in you, yet we wish always to be informed of the true state of your health. Sickness must be submitted [to] by every body; therefore I beg you would not make yourself uneasy about your not being able to follow the army in their present march. Not knowing the particulars of your illness, it is impossible to give you any particular directions, but be sure to get the best assistance of physicians or other help which either the army or the city of Mentz will afford. I have writ to Mr Hume, the Commissary, by whose means we heard the news, to give you his utmost assistance, and Mr Pelham has writ also by this post to Mr Hunter at Frankfort to do the same. If you want any money, either of them will give you credit and for God's sake be particularly attentive to the recovery of your health and procure the best lodgings you can and the utmost assistances possible. If your illness should be an intermitting fever and it should be stopt, take care to repeat the bark every fortnight for fear of a relapse; and above all things don't be too precipitate in following the army when you fancy yourself well, for that will only delay you in your business by new hazards and not forward you. As soon as you receive this, let somebody write to let us know the exact state of your case and I will send you the best advice can be got here. Your mother and I send you our kindest love and blessing and prayers for your speedy recovery and welfare, and so I commit you to the protection of the Almighty, being ever, dear Joe,

Your most affectionate Father

HARDWICKE.

Your brothers and sisters send you their kind love and best wishes.

[A subsequent letter (H. 3, f. 41) gave assurance of the young officer's progress towards recovery.]

[H. 59, f. 257.]

[On Sep. 3, 1743, the Duke of Newcastle writes to the Chancellor] I shall make no observations but to lament our present

situation at the Court of Vienna, which seems almost upon the point of breaking with us. This cruel negotiation with the Emperor is the cause of it all, and now appears to be the reason that the Sardinian negotiation is not concluded....All business is at a stand but neither you nor I can help it.

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 265.]

WHITEHALL, Sept. 13th [1743] near three o'clock.

MY DEAR LORD,

I am extremely sorry and indeed a little disappointed in not having the pleasure of seeing your Lordship here this day. The affairs now before us are not only of the highest consequence but of some difficulty....It is plain Lord Carteret intends to engage all the Lords Justices¹ in this act of his². The declaration is a strong one and may engage us in a general war; however, it may be difficult and attended with very bad consequences to set it aside now. The fault and misfortune is that Lord Carteret has brought this upon himself *and us* greatly by his abominable, courtly negotiation with the Emperor, which made the Queen of Hungary insist upon some assurance *in writing* from us. The article engaging the Q. of Hungary to abide by us till the peace with Spain is made is a good one. Upon the whole, it is a true Carteret, and may be attended with inconveniences, either by being approved or rejected....

Capt. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 44.]

MAYENCE, Sept. $\frac{15^{th}}{26^{th}}$, 1743.

...Had we made use of those means at Dettingen which the Almighty had put into our hands, many lives would have been saved which Flanders will see the end of; as all appearances seem to confirm me more and more every day that the advantages, we have let slip, have given France such opportunities to recover themselves that, how much soever some people may flatter themselves they shall be able to avoid a war, next spring will convince them of their mistake, and indeed we deserve it....

Duke of Newcastle to the Lord Chancellor

[H. 59, f. 280.]

REGENCY BOARD, Oct. 6th, 1743.

...I hope our active Secretary will at last find out that dexterity with princes, to seem to promise all and intend nothing, will as little do as with private persons. Mons^s Wasner, I find by Mr Trevor, is absolutely to insist on an assurance, whether *in writing* or not, I know not, of the continuance of the subsidy of 300 M £ pr ann.³...

¹ Of the Regency.

² p. 322.

³ p. 322.

Lord Chancellor to the Duke of Newcastle

[N. 16, f. 150.]

WREST, Oct. 7th, 1743.

MY DEAR LORD...

I have carefully perus'd the enclosed from the Duke of Richmond¹ and Lord O[rford]². They are both very good in their different ways. The former gives me much pain, when I consider the consequences of many things which his Grace relates. But how shall we mend them? So much of them as is personal is, I fear, irremediable, unless we could now make a *certain constitution*: and since we can't do that, we must endeavour to keep under, cover, palliate, and to restrain the bad effects. As to the progress of the armies, I see the play of France has been just what I apprehended³. As to winter quarters, as I know nothing of our views for the next campaign, (if there is to be one), I don't understand it; but how we come to have no magazines, supplied with money as our army has been, is to me unaccountable. It is plain from what Lord C[arteret] let drop to the D. of Richmond, that he has a peace in his head, tho' how much further it has gone we can't know yet. If it be a tolerable one, I own I wish it. The manner of our proceedings,—the making half-war, fetter'd and checked on so many sides and from so many different causes, makes me sick of it. But if our troops should march down to Flanders, won't the King of Prussia break out somewhere this winter?

Lord O[rford]'s letter is writ with great spirit and good sense; but everything that comes from his Lordship on that subject must be admitted *cum grano salis*. I don't say this by way of finding fault with him, for it is the most natural thing in the world, and really unavoidable, that he should have invincible resentments and prejudice against Lord B[ath] and his friends. But then, in your consideration of the case, you must separate *those* from the *fond* of the affair....

entirely your's

HARDWICKE.

¹ F. 143, from Worms, October 2, 1743, from the King's army, lamenting the King's "cruel partiality to his Electoral troops; it is really worse than ever, for he now almost constantly marches with them and never takes the least notice of ours." The King's Hanoverian servants even regret it, and the Duke trembles at the consequences.

² F. 148, October 4. A letter on the reconstitution of the government, advising the acceptance of Lord Cobham's offer of coming in on conditions, viz. the discarding of Lord Bath and his friends and the admission of three or four Tories, together with warnings against Lord Carteret.

³ F. 145, i.e. to leave Lower Alsace open to the British troops and provoke them to invade France.

[H. 239, f. 186.]

[On October 19, 1743, Lord Bolingbroke wrote announcing his return to Battersea, on private business relating to his affairs, from Aix-la-Chapelle, and proposing to visit Lord Hardwicke at Powis House, whenever it was convenient. The following dates from the next day.]

[f. 188.]

BATTERSEA, Oct. 20, 1743.

MY LORD,

I will take, since you permit me to do so, the first evening in my power to wait on you, and shall not fail to call at Powis House on Monday about seven. I say to call there, because if the time interferes with any business your Lordship may have, I desire you to put me off to another; for as little as I like dependance and attendance in general, I shall always be pleased to depend and attend on you. I am, my Lord, with great respect and truth, Your Lordship's most obedient and most humble Servant

H. ST J. L. BOLINGBROKE*.

[f. 194.]

[On November 10, 1743, Lord Bolingbroke writes, desiring another interview, in order to communicate] some advices I have received and which are worth your knowing in this critical conjuncture¹.

[II. 59, f. 295.]

[On November 7, 1743, the Duke of Newcastle, writing to the Chancellor, after an interview with his brother Henry Pelham, declares himself inclined to advise the King not to ask for the Hanover troops, on account of the opposition in Parliament and the difficulty of employing them to advantage, and in order to gain over the Tory opposition and recover the army and the nation to the King and preserve the credit of the government. He continues] There is one thing I would mention to you, relating to myself. It must be touched tenderly if at all. My brother has been long taught to think by Lord Orford that he is the only person fit to succeed him and that has a credit with the King upon that foot, and this leads him into Lord Orford's old method of being the first person upon all occasions. This is not mere form, for I do apprehend that my brother does think that the superior interest in the closet and situation in the House of Commons gives him great

* N.B.: at this visit I was present for half an hour, the only time I ever saw Lord B. II. [On October 25, 1743, Charles Yorke writes to his brother Philip: "Last night Lord Bolingbroke was at Powis House and staid there near 3 hours." II. 12, f. 124.]

¹ For the meaning of these visits and overtures from Lord Bolingbroke, see pp. 377-8.

advantage over everybody else. They are indeed great advantages but may be counterbalanced, especially if it is considered over whom those advantages are given. I only fling this out and make no remarks upon it.

I am, my dearest Lord,

ever most unalterably yours,

HOLLES NEWCASTLE.

[There is a large gap here in the Correspondence which is to be regretted, as it would have been of interest to know the Chancellor's thoughts on the proposal to yield about the Hanoverian troops.]

Lady Hardwicke to Capt. the Hon. Joseph Yorke

[H. 6, f. 42.]

[April 27, 1744.]

MY DEAR JO,

As I am sure you are sensible of my real love and affection, you will readily believe how glad I was to hear you were safe at Ostend¹, and hope the same good providence that has attended you hitherto will conduct and bring you back in health and prosperity, which I ardently pray for, and send success to the army and councils of our country now encompassed with those enemies I have ever lived in terror of, and more especially at this time when diversions and expence engage the whole time and thoughts of every age and every rank....Winds and weather may help us, but inattention and want of morals will destroy any people....Lord Carteret with the Pomfret family were at the assembly last night, by which you may imagine all is calm here. Tomorrow the Lords propose some amendments to a bill sent up by the Commons, making it treason to correspond with the Pretender's sons which, 'tis said, will meet with great opposition. I have lived long enough to understand nothing, nor even to guess what anybody means. Last night Lady Heathcote² invited us all to breakfast at Ranelagh Garden, but the weather must mend before I venture; for you know I have promised you all to be very careful of myself....Indeed I want you very much the long nights my Lord stays out. However, let us hear as often as you can, since it makes so great a part of all our pleasure; for be assured wee can never hear too often where wee love so much, nor ever want anything but power to serve you to the height of your wishes. My Lord's kind blessing, with the affectionate wishes of health and safety from your Brothers and Sisters, conclude this vile scrawl from your very affectionate and faithful

M. HARDWICKE.

¹ After a visit home.

² Wife of Sir John Heathcote, of Normanton, whose son Gilbert, third Baronet, married (1749) Margaret, the Chancellor's daughter.

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 61.]

POWIS HOUSE, Monday evening, $\frac{1}{2}$ an hour past 8 [May 21, 1744].

MY DEAR LORD,

I am this moment come to town, when I found the honour of your Grace's letter. If I had received your commands sooner, I would have taken care to have been here earlier; but really I am now so tir'd and choak'd with dust, and it would be so long before I could put myself into a proper dress to meet a foreign minister¹, that I must entreat your Grace to excuse my absence. Besides, it would be very disagreeable to me to meet at a conference where French must be entirely spoken, or else perpetual interruption given by interpreting on my account. The paper² which you were so good as to send me was extremely to my taste; and I think both the public and ourselves are extremely obliged to your Grace for preparing it and carrying it thro' with such success.

I am, my dear Lord,

Ever yours

HARDWICKE.

Extracts from the Military Journal of Capt. Joseph Yorke

[H. 902, f. 7.]

May 23, 1744.

Duc D'Aremberg, Count Maurice and others dine with the Marshal again;—after dinner about 9 o'clock retire into the Marshal's closet; warm disputes, the Duke uses high words with Count Maurice; he bears with 'em a long time, at last loses his patience:—I know you are D. D'Aremberg, and I am Count Maurice, who command the troops of the States General: if you are the same when sober as now when heated with wine, I am he that am ready to answer you, where and when you please.—The Marshal rises, puts an end to it. One o'clock before they all get away.

[f. 29.]

July 17.

Semper eadem, worse and worse; the old trade round again, riding, reading, writing etc., composing the amusements of this campaign, reason on what our neighbours do and what we ourselves do not do; the 17th of July and nothing done, O! Heavens.

¹ Probably Boetslaar, the Dutch envoy.² Of demands for cooperation from the Dutch, drawn up by the Duke of Newcastle and approved by the King without Lord Carteret's knowledge, Coxe's *Pelham*, i. 155.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 21.]

NEWCASTLE HOUSE, June 6, 1744.

MY LORD,

I have the pleasure to tell you that our Master gave up yesterday the Saxon Treaty¹ very coolly and very easily. He said only that we should repent it when it was too late. In other respects he seemed in good humour. I had a very extraordinary conversation with my Lord Carteret going with him yesterday to Kensington, which, with the late incidents that have passed between us, produced a more extraordinary declaration from him to my brother and me last night. He said that if my Lord Harrington had not been gone, he intended to have spoke very fully to us; that he would do it when your Lordship, Lord Harrington and we should be together. That things could not remain as they were; that they must be brought to some precision; that he would not be brought down to be overruled and outvoted upon every point by four to one; that if we would take the government upon us, we might; but if we could not, or would not, undertake it, there must be some direction and he would do it. Much was said upon what had passed last year, upon the probability of the King's going abroad etc. Everything passed coolly and civilly but pretty resolutely on both sides. At last he seemed to return to his usual professions and submission. Upon this my brother and I thought it absolutely necessary that we should immediately determine amongst ourselves what party to take, and he has therefore desired me to see your Lordship and talk it over with you in the course of this day. We both look upon it that either my Lord Carteret will go out, (which I hardly think is his scheme or at least his inclination) or that he will be uncontrollable master. My brother supposes that in that case he means we should go out. I rather think that he may still flatter himself that (after having had this offer made to us and our having declined to take the government upon ourselves) we shall be contented to act a subordinate part. Upon the whole, I think the event must be that we must either take upon us the government, or go out. I beg your Lordship would consider this matter seriously in the course of the day. I conclude you will sit this afternoon at Lincoln's Inn², and if I hear nothing from you to the contrary, I will be at Powis House this evening at nine o'clock. I hope you will let nothing hinder my seeing you this evening, for otherwise we may be surprised with Lord Carteret's declaration before we are prepared for it. The inclosed letter was given me last night by Lord Carteret who introduced this discourse with it; that there was anarchy in Holland and anarchy at home; that the

¹ The subsidy was granted, however, next year. Saxony, from its position between Prussia and Bohemia, was an important State. See below, p. 350.

² The business of the Court of Chancery at that time was chiefly carried on in the Hall of Lincoln's Inn.

former might be removed by a Stadtholder; that in order to remove the latter things must be brought to a precision etc.

I am, my dear Lord,

ever yours

NEWCASTLE.

Captain the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 51.]

HEADQUARTERS OF THE CAMP AT MARIENLATHEM, June $\frac{7}{18}$, 1744.

... You were desirous of knowing whether the report of the officers having kissed Prince Charles [of Lorraine's] hand was without foundation or not. The affair was all over before I arrived at Brussels, but I was informed by those who were there that Sir P. H[o]neyw[oo]d said he would kiss the Archduchess's hand, as she was a fine handsome Lady and he was a gay gallant man, upon which the other generals and officers followed the example, but nobody kissed the Prince's hand; but the Marshal put a stop to it when he came so that I was deprived of that pleasure....

[N. 18, f. 108.]

[The Duke of Newcastle writes on June 10, 1744 to Henry Pelham on the subject of Lord Carteret, desiring that his letter may be shown to the Chancellor. The King had particularly singled out the Duke for signs of his displeasure and this must have been owing to Lord Carteret's representations, since no new incident had happened. He had long been convinced that it was impossible to go on with Lord Carteret.] This opinion chiefly arose from the nature of the man who never will have any fix'd scheme of acting; lives upon events and has such a contempt for everybody else that he will not so much as vouchsafe to communicate his thoughts to those with whom he acts, whoever they are. But that which particularly at this time makes it, in my opinion, impracticable and unsafe to go on with him, is that his chief view in all he does or proposes to do is the making court to the King, by mixing with or preferring Hanover considerations to all others. By this method he secures the Closet whether his schemes succeed or not. Hitherto we have defeated many, and if we were all equally determined to bear, and take the share and weight of so doing, we might hope to get the better of Lord Carteret upon the only solid foot, viz., that of pursuing this war or making peace, if practicable, upon an English principle. [This, however, was now impossible, and the position of affairs seemed hopeless. Either of the plans now proposed—Lord Carteret's war for the sake of Hanover or Lord Harrington's renewal of the Hanoverian Neutrality—would ruin this country. As for himself, he would not resign at the present juncture, but for the present confine himself entirely to the affairs of his own office,

and would enter the Closet as seldom as possible and avoid Lord Carteret, till they should all resign together; nor would he accept office again, even with Lord Carteret excluded, without a clear understanding that Hanoverian complaisance was no longer to influence all their conduct.]

Commodore George Anson to the Lord Chancellor

[H. 11, f. 36o.]

H.M.S. Centurion at SPITHEAD, June 14, 1744.

MY LORD,

I ought to have wrote to your Lordship on my arrival at Canton, where in all probability my expedition was at an end as to any service I could undertake against the Enemy; but I was so ill satisfied with my success, being abandoned by one part of my squadron, and the remainder being either wrecked or reduced to such a condition by the bad treatment we met with in passing Cape Horn, that it was not possible for me to keep them above water; these misfortunes gave me an uneasiness I could not express to your Lordship, which was not a little aggravated with the reflection of what I could have undertaken for His Majesty's service, if the squadron had got into the South Seas in tolerable plight; for I have good reason to believe that with one fourth part less strength than I carried from Spithead I should have left the Spaniards a very uneasy remembrance of my having been in that part of the world¹. After my ship was fitted in China, I determined to attempt the galleon from Acapulco, tho' I had not half my complement of men. Here fortune favoured me, for I met her at the entrance of her port with near three times my number of men to defend her. After an hour and a half's engagement within pistol shot the admiral struck his flag and became my prize. Tho' the expedition has not had all the success the nation expected from it, which is a great misfortune to me, I am persuaded no misconduct can be justly laid to my charge as Commander in Chief, and I should have great pain in returning to my Country after all the fatigues and hazards I have undergone in endeavouring to serve it, if I thought I had forfeited either your Lordship's favour and protection or the esteem of the public.

Mr Keppell² is my third lieutenant; I have recommended the

¹ George Anson (1697-1762), son of William Anson of Shugborough. His famous voyage has often been related. He sailed on September 18, 1740, with six ships, but arrived at Juan Fernandez with only three ships and 335 men out of 961 who had started. Undeterred, however, by these terrible disasters and losses, Anson persevered, sacked and burnt Paita and destroyed the Spanish trade. He then sailed for China with one ship, the *Centurion* alone, with 227 men, and on June 20, 1743, with this little vessel and diminished crew, captured the Spanish galleon with 600 men and half a million of treasure. Later he married the Chancellor's eldest daughter, Elizabeth.

² Hon. Augustus Keppel (1725-86), afterwards Viscount Keppel, younger son of the second Earl of Albemarle.

bearer Mr Dennis¹, my first lieutenant, to the Secretary of State and hope they will prefer him, for he well deserves it.

Your Lordship's most obedient humble servant

G. ANSON.

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 156.]

Powis House, June 24th, 1744 at night.

MY DEAR LORD,

As I am always desirous to obey your Grace's commands², I ask'd an audience of the King today after his Drawing-room. His Majesty had, before that, order'd my Lord Carteret to come into him when he retir'd, so his Lordship went in first. As he came out, he whisper'd me in the ear, with an appearance of pleasure in his look, that the King had determin'd not to go abroad, and had that instant order'd him to write to counterman his equipage. I found by this my business was half over; however, I instantly resolved to pursue my point in order that my opinion might be known, and that I might the better demonstrate my connexion with your Grace by supporting, *secundum modulum meum*, what you had so well begun on Friday. I began with the little business which I had contriv'd to introduce myself. After that was over, I begg'd his Majesty would permit me to open to him what had lain nearest my heart for some days. I then proceeded to urge the reasons against his going abroad which are too well known to need repeating. He heard me patiently and then said, *You may be easy; I have just now told my Lord Carteret that I have chang'd my resolution about going abroad and have order'd him to counterman my equipage.* I bow'd and said *It was the best news I had heard a great while.* His Majesty then replied, *I know what this is; it is contention for power and from motives of that kind I am to be confin'd.* To this I said, *Nobody can, or thinks to, confine your Majesty.* For my own part, the advice I give you proceeds from a sincere conviction of your true interest and service and I never aim'd at ministerial power. King. I dont suspect you; I never found it in you. Upon this I said, *I was sure no friends of mine desir'd more power than was proper to the stations his goodness had plac'd them in and without which his service could not be carried on.* He then turn'd the discourse and pull'd a letter out of his pocket from

¹ See Barrow's *Life of Anson*, 106.

² To remonstrate with the King on the subject of his desire to go to Hanover.

General Read which he read to me. It contain'd an account of the four regiments being safely arriv'd at Ostend, of the bad condition of that fortress, and the probability of the French army bending that way after the taking of Yprès, and that there were 4, or 500 ships in Dunkirk. His Majesty chose to represent this as his reason for changing his resolution, and said—*You see, my Lord, that when anything essentially concerns this country, I give way to that before anything else, and I would by no means be absent when there is any appearance of danger here.* I did not fail to applaud and encourage that way of thinking; whereupon his Majesty said something of keeping back the two old regiments and the Dutch troops also. I could not help saying to that that I had for some time been of opinion that the two old regiments should be kept, lest the nation should be left too defenceless; but as to the 6000 Dutch, I doubted the engagement of sending them over had gone too far. And indeed it is my *present* opinion¹.

I have now told your Grace the most material parts of the conversation, and my being straiten'd in time obliges me to leave you to make your own reflections upon it, which I am sure will be better than any I could offer. Only one thing I will add, that I take this letter of Read's to be but a colour and pretence, and that this sudden change of the measure proceeds from some other source. I cannot help thinking that what your Grace said to him on Friday has, upon consideration, had much weight with him, either in one view or another.

I beg your Grace will not shew this to anybody but Mr Pelham, and I thought it was proper that both of you should be appriz'd of these particulars before either of you saw the King tomorrow.

I forgot to mention that when I came out from the King Carteret resum'd the discourse; express'd great joy at the King's declaration not to go, but did not to me take any merit to himself in dissuading him from it. He added that the Dutch troops must go, and that we must soon have a meeting to consider about strengthening the army.

I am, my dearest Lord,

Ever Yours,

HARDWICKE.

¹ They had been sent over to England on the news of the attempted invasion in February.

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 48, f. 217.]

LONDON, July 7, 1744.

...The procession of Anson's people with their treasure, on Wednesday, was a sight more rare and not less agreeable to an Englishman than the Secular Games to a Roman. The sailors, who formed it, were only part of the crew that brought home the ships; for besides these English there were men of eighteen other different nations, viz. Dutch, French, Spaniards, Italians, Germans, Swedes, Danes, Muscovites, Portuguese, Lascar Indians, Malays, Persians, Indians of Manila, Timor and Guam, Negroes of Guinea, Creols of Mexico and Mozambique¹.

Lady Hardwicke to Capt. the Hon. Joseph Yorke

[H. 6, f. 58.]

July 12 O.S. [1744].

MY DEAREST CHILD,

The terror and pleasure your two last affectionate letters gave me, which came both together, is not easily expressed. I thought of no dangers but those of our enemies, and yet without God's immediate protection and blessing with what dangers are we encompassed. For his great goodness to you in your late deliverance may we be as thankful as we ought and by that means draw down his Almighty protection, without whose powerful aid what is wisdom or strength or favour². To that Great Being I hourly pray for your particular protection as well as for mercy to this country where I live, that our crying sins may not draw down his judgments upon us. We find many faults with your conduct and say you want every thing but valour. God knows what you can say for yourselves, but I praise your saying nothing of the present posture of affairs, for without power to help talk is the province of silly women like myself. But I shall never cease my ardent prayers for mercy. Dutch and Austrian measures I thought of last year as I do this, and let that suffice. The only good news I can send you is that my Lord is much better for the short recess he had in the country, where I wish he could have stayed sometime longer, but business forced him back where I fear the hurry of mind and body is too great for any man at his time of life to bear. ...We all rejoiced to think you had Grey³ with you, who I hope continues well. Charles is at Wrest with his brother. They and Lady Grey came and dined with us one day, whilst we were in the country, and I think my Lord resolves to spend his vacation there, if he can get any leisure. A full family will be better for him, and besides, he would have so many workmen about him at Wimpole

¹ See above, p. 330. "The King and all the royal family were spectators. The Tars were very happy and dressed themselves in the Spaniards' fine cloaths." *E. Montagu's Corr.* by E. J. Climenson, i. 186.

² It does not appear to what incident this refers.

³ His horse.

and no stables ready for his horses, that it would have made him uneasy had much company come to him. My dear love, write to us when you can, but not to interrupt any sleep you can get, which is so necessary to labour....Once more, God Almighty bless you, to whose protection I commit you, being with unfeigned love

Your ever affectionate

...

M. HARDWICKE....

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 258.] POWIS HOUSE, *Sunday night* [endorsed Aug. 5, 1744].

MY DEAR LORD,

Tho' nothing very particular pass'd in my audience today, yet I would not go out of town without acquainting your Grace with it. My first business was to ask leave to go out of town which the King receiv'd with great civility, express'd some concern for my health etc. I then told him that I hop'd in the meantime he would receive some good news from his army in Flanders, whose situation I was glad was so much chang'd for the better¹. His Majesty said, Yes, he believed they were 30,000 men stronger than Maréchal de Saxe; and at least they would live upon the Enemy's country and save some expense to the nation. I said that was very necessary; but hop'd such a superior force would procure still more advantageous consequences. His Majesty replied that was uncertain; and the great danger *now* was from the King of Prussia. I said that I could not but hope, from his former conduct, that he would encamp and decamp, march and countermarch, but that it would be a good while before he would venture to commit any active hostility against the Queen of Hungary or her allies; and that he would be afraid to forfeit his guaranties for Silesia². To this the King said, "He does not value that of a farthing. Notwithstanding his secrecy, I know his design; he will march part of his army towards Prague and another part into Bavaria. I wish Saxony could be assisted with a sum of money³." To this I answer'd, "The King of Poland is already engag'd to the Queen of Hungary by treaties just made, and is so essentially interested, both as King and Elector, to prevent the King of Prussia from

¹ Through the invasion of Alsace by Prince Charles of Lorraine, which necessitated the detachment by the French of troops from Flanders and left the Allies in a superiority.

² He invaded Bohemia this same month and took Prague.

³ See above, p. 344. Augustus, Elector of Saxony, was also King of Poland.

aggrandizing himself on that side, that he can want no temptation to induce him to do all he is able to hinder it." The King replied—"All that is true; but he has no money and what can he do without that?" I said, "He is a Prince of greater power and riches too than many others that ask subsidies, and has hitherto been able to keep up an army of 30,000 men." The King replied, "But he can't put them in motion without a supply of money; they are maintained for little in their own country in time of peace." Upon this I took the liberty to say further, that the large *additional* subsidy which his Majesty had already granted to the Queen of Hungary, was an *additional* reason against the practicability of the Saxon demand; and I hop'd would enable the Queen to do a great deal herself. The King made no reply but pull'd some papers out of his pocket, so I made my bow....

Most faithfully and affectionately yours,

HARDWICKE.

Lord Chancellor to Capt. the Hon. Joseph Yorke

[H. 6, f. 68.]

POWIS HOUSE, Augst 6th, 1744.

DEAR JOE,

Having finished my Chancery campaign, and being going into quarters of refreshment, I lay hold of this first opportunity to thank you for all your letters....You have been very good in writing so regularly. It gives us satisfaction here, and must be of advantage to yourself, and your Journal has been as informing as any accounts I have seen from the army—except the Marshal's own. Your state of inaction before the Passage of the Scheld was the subject of much observation and some grumbling here, but I always maintained that it proceeded from prudent reasons, and that a wise General with an inferior force, in daily expectation of reinforcements, ought not to hazard bringing on a general engagement, before his reinforcements came up. The scene is now opened to you, and God grant it may be closed with success and glory! Your march into the enemy's country, and turning some of the calamities of war upon the authors of them, gives much satisfaction here, and fills the people, who reason hastily upon those subjects, with very sanguine hopes. It is indeed the very measure which those here, who are best skilled in military matters, wish'd might be taken, as what, if anything, would bring Maréchal de Saxe to an action or

else make him so weaken his army, in order to strengthen the garrisons, as might afford the Confederates other advantages. We are in daily expectation of further news from your side, either of a battle or of some town having fallen into your hands, or at least of your having penetrated further.

The accounts we receive of the good agreement between the British and Hanoverian troops, and of the good discipline preserved in the army, give great satisfaction to all who wish well, and do the Marshal¹ much honour....

As we are anxious for the Public, so we are particularly for your preservation. You are engaged in a good cause. God keep you in health, virtue and honour, and cover your head in the day of battle. Your Mother joins with me in our blessing and most ardent wishes for you, and be assured I am

Your most affectionate Father

HARDWICKE.

*Extract from Capt. Joseph Yorke's Journal with the army
in Flanders.*

[H. 6, f. 70; H. 902, f. 39; see also H. 6, ff. 46 sqq.]

...Aug. 7. Mar[shal Wade] goes to D[uc] D'Arem[berg]²: whilst he is there, they receive advice that the French were in motion out of the three gates of Courtray, making a motion as if they meant towards Lille, with intention to defend their works upon the Marque; upon a confirmation of this news, the army ordered to march at 5 o'clock in the evening in 3 columns as yesterday. At 5 the Mar[shal] waits again on D. D'Arem[berg]; finds the D[uc] had counterordered everything they had agreed on before with regard to the march, denies his intention to march till they had further intelligence of the enemy's bent; the Mar[shal] cool as ice and like a Gentleman, the other surly, hot and brutal; the Mar[shal] says the troops under his command are upon the march according to agreement; ...as the troops imagine they are going towards the enemy, it may be attended with bad consequences to make them encamp again; the D[uc] for sending a detachment, the Mar[shal] says he can't contradict his orders. The want of pioneers and good guides at the head of the front column occasions great distress in the night, hardly move on, the 2nd line outmarch 'em—continue marching however all night....A great deal of embarras with the baggage—the Marshal gets in the midst of it, much difficulty to get him out of it....Truth is D'Aremberg] had ladies at dinner and did not care for marching....

¹ Marshal Wade, see p. 255 n.

² Leopold de Ligne, Duc D'Aremberg (1690-1754), Austrian Commander in the Netherlands.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 33.]

WHITEHALL, Aug. 8, 1744.

MY DEAR LORD,

Nothing but the utmost necessity should make me interrupt you in your retreat, or endeavour to bring you to town a day sooner than you intended; but I am persuaded the critical situation of things and your goodness and friendship to me, will not only engage you to excuse the trouble I give you but to comply with my request. [An express had arrived that morning with the news of the declaration of hostilities by Frederick of Prussia against the Queen of Hungary and of his intention to support the Emperor, of his march with 50,000 men to Prague and of his application to the Court of Dresden for leave to pass through Saxony. The latter had determined to oppose their passage, but the King and Elector could not put the Saxon troops into action without money. The grant was desired by the King and supported by Lord Carteret, but the Pelhams were of opinion that though it should not be absolutely opposed, the Queen of Hungary should do something after the large subsidies lately given to her, and also Holland whose territories would be exposed, if the Archduke Charles were obliged to repass the Rhine.] Upon the whole, I think it is a point which deserves the utmost consideration and is attended with great difficulty, and therefore I not only beg and [? but] insist with your Lordship that you would come immediately to town, not only that we may have your opinion upon this point, but as I find that my Lord Harrington and my brother are of opinion that we must now (and perhaps tomorrow) determine our resolution upon the great point¹, which has been so long depending and which I think now is the only point which is worth giving an opinion about; for upon that depend all the rest. [He will order horses and a messenger with any further letters to meet the Chancellor at Ware on the morrow.] My dear Lord, all considerations, public and private, make this the most critical conjuncture and question, and therefore I hope you will not refuse me to come to town; for believe me, in this, as in everything, your opinion will have the greatest weight with me....

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 270.]

POWIS HOUSE, Aug^t 16th, 1744, 8 at night.

MY DEAR LORD,

Your Grace will wonder to hear from me at this hour, from this place, but the explanation of it will make the subject of this letter. Last night, about 9, I was inform'd accidentally that an express was arriv'd from the army....The result is that

¹ Concerning Lord Granville.

Duke D'Aremberg, Marshal Wade and Count Nassau, who us'd to differ in everything else, agree unanimously in rejecting Lord Stair's plan¹. Wade says the facts, whereon it is grounded, are entirely without foundation;—that M. de Saxe has with him 72 battalions and 105 squadrons;—and that he never could conceive how any part of it could be carried into execution. The decisive opinion against it is signed by Duc D'Aremberg and Count Nassau; and there is another paper signed by all three, and also by General Wendt, concerning the impossibility of attacking M. de Saxe in his present situation, in which the opinion is all of Duc D'Aremberg's hand-writing. The whole centres in a concurrent opinion for the siege of Maubeuge, wherein there are at present only one battalion of regular troops and 3 of milice². But your Grace will find by Ligonier's report (who was Wade's deputy at the second conference) that the Dutchmen present absolutely refus'd to contribute to any part of the expense;—a point which he represents himself to have debated well with them....

Lord Carteret and Lord Stair came to my Lord President's³ very late. The latter seem'd a good deal disturb'd and piqued at his plan being rejected; but by the way, I don't think he is quite recovered of the stroke your Grace saw him under upon Tuesday, looks ill and seems sometimes to have some difficulty in his speech. However, Lord Carteret undertook, at his pressing request, to send him a copy of the opinion upon which he is to write his reply and remarks, which are to be transmitted to Wade. I wish we have not a paper war instead of one *en campagne*. After Lord Stair was gone, the result of our conference was that, whatever any particular opinion might be, it was impossible for the King and his servants here to order the army to penetrate into France according to the *said plan*, contrary to the opinion of the three generals of the three nations; which seem'd to have the more weight, because it came from persons who have no *p penchant* to agree with one another. That therefore Lord Carteret should write tomorrow to press them to make the siege of Maubeuge...that they should be most vigilant and attentive to prevent M. de Saxe from reinforcing the garrison and to get up their artillery....That Lord Carteret should at the same time write to Mr Trevor to represent to the Dutch ministers

¹ For the march of the allies to Paris.

² But while the allies were discussing projects, the garrison was strengthened by troops returning from Alsace and this also was given up.

³ Lord Harrington.

the prodigious unreasonableness of their pretending to throw this burden upon the King....Boetzlaar¹ is also to write. My Lord President threw out another point,—that if finally the siege of Maubeuge should not be practicable, they should consider of detaching part of this great army to the Moselle (as was formerly hinted by somebody) and leave sufficient to remain upon the defensive in Flanders; for that as the great point is to create a counter-diversion to the King of Prussia, and to prevent Prince Charles being overpower'd, such a movement might have that effect. The only objection I had to this was lest by starting so many hares at once, our pack of generals should not staunchly follow the scent of any. But Lord Carteret has undertaken to represent to them *de novo* the inevitable danger to themselves as well as to the public, by wasting the campaign in doing nothing. This was the result of our conference, at which I am to the last degree mortified that we had not your Grace's and M^r Pelham's company, but how it will be executed by the person who holds the pen, I know not. I own I see such a spirit of confusion, contradiction and irresolution in the army, that I am full of melancholy apprehensions lest the campaign should wear out without anything material being even attempted; and I fear Marshal Wade's ill health makes him low-spirited, and consequently things may go worse on that account; tho' they say he is got pretty well again.

I shall go to Wrest tomorrow morning, and indeed I absolutely want some recess. I beg your Grace will protect me in it as long as ever you can; and indeed I look upon myself as making a ridiculous figure to attend these military consultations of which I really know nothing, and which is more, cannot be suppos'd to know anything. God bless your Grace and M^r Pelham, and give you much health and pleasure where you are, and more pleasure here at your return than you have found of late.

I am ever [etc.]

HARDWICKE.

Lord Bolingbroke to the Lord Chancellor

[H. 239, f. 279.]

BATTERSEA [Aug. 17, 1744].

MY LORD,

I should not easily forgive myself if I had been in any degree the cause of your Lordship's losing one moment of the little

¹ Dutch envoy in London.

recess from business you are likely to have, or one mouthful of country air. I send this letter according to your directions and doubt not of its getting safely to your Lordship's hands. Tho' I cannot name in it the hands from whom my intelligence comes, yet you may be assured that it comes thro' common friends, from those who have been witnesses of all they mention and who may be depended upon. The circumstances of the King of France's illness are much the same as you have heard, but the following circumstance you may not have heard. It might be without any particular reason, but it might be likewise by some presentiment of illness, that he ordered the abbot of Fitzjames, Bishop of Soissons, not to leave him but to accompany him to Metz. This prelate attended him during his whole sickness, and I observe that it is the mode among all those, who dislike the violent measures into which the Queen of Spain has drawn their court, to applaud the *frankness*, the *boldness* & the *solemnity* with which he spoke to the King about his whole conduct. It is certain the monarch was very devout, that is, very much frightened. He who has no love for his Queen, ordered that she should be sent for, and she arrived at Metz the 17th. The Dauphin and his sisters were stopped at Chalons for fear of infection, the fever being of a very malignant kind. He pressed to receive the sacraments and even that of extreme unction. Before he received them he said that he knew the Ladies, who had orders to return to Paris, were still within four leagues of Metz and added that for their disobedience to these orders, he deprived M^e de la Tournelle of the place of Superintendent of the future Dauphine's household, and her sister M^e de Lauragais of that of Dame d'Atour or Mistress of the Robes. He continued in great fervour of devotion and much and deep penitence, repeating that he hoped to recover for nothing so much as to make amends for the ill examples he had given and to ease his people and to govern them better. How he will persist in these new dispositions, I know not, but it is very possible that the cabal of what is called *les petits cabinets* may be broke by this event, and the best people there hope and believe it will. What use and whether any is to be made of the prospect that opens itself, I presume not to judge. But this I will say that our present condition requires we should neglect nothing which can be effected by vigour or address. We talk much of the former but we exert little; for profusion of money alone is no more vigour than every Limberham¹ shews who gives great sums to mercenary wenches that he makes no use of. Adieu, my honoured Lord; whenever I hear that you are at London, I will endeavour to pay my respects to you in person; and I may very well have no other call thither, since the world cannot think me worse company than I think the world. I shall be as long as I live and in every state of life my Lord, your Lordship's most obedient and most faithful humble Servant,

H. St. J. L. BOLINGBROKE.

¹ A foolish, weak person, cf. Dryden's "Limberham"—literally one with limber hams, supple, obsequious. Murray.

Duke of Newcastle to Right Hon. Henry Pelham

[H. 60, f. 39; N. 18, f. 281.]

Aug. 25, 1744.

...I have reserved to the last that which is the most disagreeable ; I mean the present temper and behaviour of the King. His difficulties with regard to the engaging the Elector of Saxony are in some measure got over, and he knows what his servants will, and what they cannot, do, so that he has nothing further to expect from them. This has produced all the resentment that can be shewed by manner, by looks, by harsh expressions to those (and to me in particular) who, he thinks, have obstructed his views and are actuated by principles different from what is most agreeable to him ; and that in the presence of the person, who equally recommends himself by the success or the miscarriage of the measures which the King wishes. The affair of the King of Prussia (though very falsely) is undoubtedly represented to have been occasioned by the King's not entering into the separate negotiation last year at Hanau, which, you know, is laid to our charge¹, the inaction of the army and the disagreement of the generals to the King's having been forced to stay at home, and perhaps even the motions of the King of Prussia to the miscarriage of the Saxon Treaty... ; and I think I can see by the air of the court and the courtiers a greater shyness towards us, or at least towards me, than I have ever yet observed. I shall not be at all surprised if you, or any of the rest of our friends, should find things otherwise. That I take to be the play of our Master, but he will soon see that that will not succeed. Upon the whole, I am of opinion that he thinks at present that he has nothing more to hope for from us and nothing to fear ; that he will go on with his favourite, Lord Carteret and he will use us accordingly. In this situation of things I daresay you will not be surprised, at my repeating again, what I have often mentioned, that if any joint resolution can be taken by all our friends to shew the King that he must choose between the different parties in his administration, I shall leave the time of doing it to them, provided that, at all events, it be some time before the meeting of the Parliament. But if nothing of that kind can be agreed upon, I must, and am determined, to let the King know that my having had the misfortune to differ in some points from Lord Carteret had, I found, made me so disagreeable to His Majesty, that, out of duty to him, and regard to myself, I must desire his leave to resign my employment. For indeed no man can bear long what I go through every day in our joint audiences in the closet².

¹ Above, p. 322.

² For Henry Pelham's reply see Coxe's *Pelham*, i. 167.

Lord Chancellor to Capt. the Hon. Joseph Yorke

[H. 6, f. 78.]

WREST, August 29th, 1744.

...You are very polite in concealing the name of your school-fellow on occasion of his frolic, but it was known here from the first that Captain Rosse was the person. You are in the right in disliking such vagaries. The true rule is to decline no danger or hazard when your duty requires it or the service can be advanced by it, but the same service makes it a duty not wantonly to solicit it. I am glad the Marshal gave orders to prevent such mischiefs for the future....

Much [talk?] has been wasted over hither concerning the dissensions amongst you. Would to God that prudence and public spirit may so far prevail as to bury them all. God forbid that after all the efforts England has made for the Good Cause, any blame should be laid at her door. I flatter myself it will not be so with justice....The season of the year wears apace which makes me very anxious....Your brothers with Mr Wray set out on their Northern Expedition on the 7th inst^t....You must not take it ill that they have not writ to you of late, for this march and the preparations for it have for some time taken up all their thoughts and hours. You must not think that they can camp and decamp as quick as armies....I daresay they will make amends by an ample narrative of their great operations....I had writ thus far when I received three articles of most mortifying news. Démont taken, almost without a siege; Prince Charles obliged to repass the Rhine, uncertain with what loss², and the passage of the Prussian artillery by Dresden with the probable consequences of it. These are heavy strokes, and make it the more absolutely necessary for your army to complete some operation before M¹ de Saxe's reinforcements can come from the Rhine....Be attentive to all the good advice I have given you....

Lord Chancellor to the Duke of Newcastle

[H. 60, f. 45; N. 18, f. 291.]

WREST, August 30th, 1744.

MY DEAR LORD,...

Your Grace's obliging letter³ rolls upon most important points—the state of affairs both foreign and domestic. [He deplores

¹ A visit to various places in the North of England.

² Obliged to take this step in order to march into Bohemia to oppose the King of Prussia.

³ Of August 28 (f. 41), printed in Coxe's *Pelham*, i. 169.

the retirement of Prince Charles across the Rhine. The King of Poland [*i.e.* the Elector of Saxony] appears ready to desert to the enemy. In all probability French detachments would arrive shortly in Flanders and render any siege impossible. The only hope was a sudden blow and against that all the generals were united, their one point of agreement.] Upon this my reflexions are indeed melancholy ; and I fear the case is brought nearly to what I always apprehended and said, that if the King of Prussia would dare to take this wicked part, there would be no remedy without some powerful assistance from Russia.

I am sure that without such an alliance¹, as your Grace and Mr Pelham do both very wisely mention, nothing material can be done....If that could be obtained on proper terms, and those terms *bona fide* pursued, we might perhaps struggle on ; for I am as unwilling to submit to France as any man, and if either we or the Dutch propose a pacification to that power at present, it must end in such a one as she will give, and what a terrible one will that be?...

As to the King of Sardinia, the surrender of Démont², almost without a siege, surprizes me. I wonder Mr Osorio³ can talk seriously about his Master's asking the King's advice. What can that advice be but insisting that he should adhere to his engagements, after all the cessions that have been made to him and after all the money and all the support he has had from England ?...

As to the state of affairs at home, particularly at Court,...your Grace knows my opinion fully on that subject both in general and with regard to your own particular. For you I feel as much as you can do for yourself ; and I am ready to take any part which not only the public service but my obligations, friendship and attachment to your Grace can demand. I observe the old difference of opinion still subsists whether to lay hold of some public measure, or of considerations, which may be thought of a more particular and personal nature. The discourse now raised about the breaking of the Treaty of Hanau and its supposed consequences, and the laying of that at the door of the Regency here may probably give rise to what you wish ; and I lay the more weight on what is *now* said of that affair, because I have observed that Lord C[arteret] has twice of late put us in mind (tho' without any grounds) that at that time he could have had the Emperor for 300,000 crowns, if we had not prevented it. I remember so well the progress and circumstances

¹ With the Dutch.

² On August 17.

³ Chevalier Giuseppe d'Ossorio, Sardinian envoy to England.

of that affair, so far as it was *partially* disclos'd to us; and I think what we did in it and the opinion we gave upon it, proceeded on such strong and solid reasons that I am confident it will stand the test of any examination, and justify us and condemn the authors of the negotiation in the opinion of all the world. It looks by one of Haslang's¹ letters as if the King of Prussia was at work to put the opposition upon this scent (I mean in his own way), and that may probably bring it into Parliament....

Marshal Wade to the Lord Chancellor

[H. 239, f. 292.]

CHATEAU D'ANSTEIN NEAR LILLE,

Sep. 2, 1744 O.S.

MY LORD,

I depend upon your Lordship's goodness to pardon me for having so long delayed to answer the kind and obliging letter you was pleased to honour me with, but having had a return of the asthma, together with a spitting of blood, it has for these three weeks rendered me so weak as to be hardly able to perform the necessary business that must dayly occur to me in my station. [He praises Joseph Yorke, his aide-de-camp, as having "a true military genius," and deserving promotion, and proceeds] I am extremely obliged to your Lordship for good wishes for my success, but there is so little prospect of answering the sanguine hopes of my countrymen that I fear we shall neither be able to lay siege to any of the enemy's fortified towns nor to bring them to a general engagement, the last of which I have been extremely solicitous with my colleagues that we should attempt and, pursuant to His Majesty's repeated commands, proposed it in a council of war, but was so unfortunate as to be single in my opinion. In short, my Lord, partial and private considerations seem to influence our actions here, and if we don't alter our measures, our treasure will be exhausted to little purpose.

GEORGE WADE².

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 53; N. 18, f. 307.]

Sep. 14, 1744.

[Abroad everything was most gloomy, little assistance to be expected from the Czarina on account of her violent hatred of the Queen of Hungary, and the Dutch talking of making *cause commune, totis viribus* etc., but when it came to the point refusing both troops and subsidies. He desires to come to Powis House to discuss with the Chancellor the great point, the move to be taken against Lord Carteret, before he meets his other friends. His own opinion is still, either to remove the cause of all their troubles or else to resign, that is, to have full responsibility for carrying on the

¹ Count Joseph Francis Xavier Haslang, Bavarian (and Imperial) envoy in London.

² See also his letter to Lord Carteret, H. 6, f. 92.

war or to have none. Others, however, still wished to make measures the point of dispute, but how could they censure the war now after concurring in it all along? He fears lest this difference of opinion may be the cause of their being drawn on through the session] blaming, cavilling, but still going on and awkwardly supporting, to prevent which I depend upon your friendship and weight in our deliberations....

Extract from Capt. Joseph Yorke's Journal

[H. 6, f. 83.]

Sep. 19th [1744].

Marshal [Wade] goes to a meeting of the Generals. Duc D'Aremberg proposes to go and attack Count Saxe now: the Marshal says that is the same proposition he made before, but if the want of forage was an argument then, much more must be the strength of it now, the French having consumed all the forage since then which should have subsisted us at that time; does not know what scheme the D. D'Aremberg intends to propose for subsisting the cavalry. The D. D'Aremberg says you must consult with your commissaries how you may be furnished from Ghent. The Marshal replied that the Duc knew very well that it was expressly forbid from England to pay for any forage during the rest of the campaign, but nevertheless if it was with the view of action and that it might not be said he was backward, he would venture to pay for 8 or 9 days, the space of time that such an affair might naturally take up (but as the Duc was then for putting down in writing that the Marshal could not agree to it, not having power from England, the Marshal desired he would not lay it upon him alone, but ask the Dutch in his presence whether they would pay, even as far as he proposed to do, which he did, and they answered they had neither money nor power to undertake that expense. Count Maurice, who had said nothing because of his weakness from illness during the debate, said at the end pretty shortly to the Duke, "I don't like your scheme at all," which made him turn upon his heel and quit the room in a pet.

In short they separated without coming to any resolution, excepting the making a general forage after tomorrow....

[H. 902, ff. 77 sqq.]

[The campaign finished in a continuous downpour of rain from October 14 to 16 and a storm of wind which prevented the tents being set up.] Oh! that every soldier was as well off as I am with a fire to dry them...dismal accounts of 'em, many perish with cold by it, 2 or 3 of our regiment found dead under carts.

Oct. 20. Marshal marches into Ghent with the rest of the garrison of that place, and so finishes the most inglorious of inglorious campaigns¹.

¹ See also H. 15, f. 66 and cf. letters of Col. Russell to his wife, *Hist. MSS. Comm.*, Mrs Frankland-Russell-Astley, 214 sqq.

Lord Bolingbroke to the Lord Chancellor

[H. 239, f. 314.]

BATTERSEA, Oct. 13, 1744.

MY LORD,

I am extremely glad that the manuscript afforded you the entertainment I thought it would¹, and when your Lordship has leisure to be entertained again by anecdotes of such a nature I shall be able to supply you with them. I shall be so the more because there are none that I will scruple communicating to you, even those that concern me personally the most. I own that besides the pleasure I shall have in seeing you, it will be great satisfaction to me to have an opportunity of saying something to you *de summa rerum*, for even that is concerned, if I mistake not, at this moment. Something my personal regard to you will call upon me to say, and something my love for this country, though I can scarce call it my own. I do not pretend to be able to advise, but I may be able to inform. I never go to London, but will do so whenever your Lordship pleases to order me to do so, and if I cannot see you in the morning, I will contrive to lie in Town...².

[f. 317.]

[Lord Hardwicke appoints Sunday morning, the 28th, at 9 o'clock.]

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 72, N. 18, f. 363.]

CLAREMONT, Oct. 14, 1744.

MY LORD,

I have received by Mr Stone your Lordship's opinion given yesterday to my brother and to Mr Stone upon the cruel behaviour, as I must call it, of my brother towards me in insisting that, previously to my Lord Lincoln's marriage with his eldest daughter, I should absolutely give up the power of revocation which is now in me with regard to all his daughters in favour of those who will remain unmarried³. As I find the conclusion of my Lord Lincoln's marriage, and consequently his happiness, is made absolutely to depend upon this, and as by the very incautious, not to say more, proceedings of Mr Perkins⁴, I am not so strong in form in

¹ Below, p. 367.

² For the meaning of these overtures from Lord Bolingbroke see below, p. 377.

³ On the marriage of his brother the Duke had given up to him half the fortune inherited from his father (Coxe's *Pelham*, ii. 305). The Duke had no children. Henry Pelham had two sons who both, however, died in 1739 from the "Pelham fever"; his eldest daughter, Catherine, now married the Duke's nephew, Henry Clinton, ninth Earl of Lincoln, afterwards Duke of Newcastle. The present demand the Duke describes in a letter to his brother (Add. MSS. 33,666, f. 16) on the preceding day as one "wholly to put the estate out of his own power in favour of others." See also above, p. 254.

⁴ The Chancellor's Secretary.

my refusal, as I might otherwise have been, and as I will never put it in the power of any man or woman alive to impeach in the smallest degree either my honour or my integrity, I shall out of regard to my [Lord] Lincoln and myself, submit to these cruel terms. But I should equally act against all rules of justice and veracity, if I did not declare to your Lordship that from the time of signing the deeds, I shall break off all correspondence with my brother and his family, and as that would equally happen if I should refuse to submit and the marriage break off, nothing can prevent a breach but my brother's not taking advantage of this very unfortunate proceeding. Give me leave, my Lord, to say your Lordship's opinion greatly concerns me and indeed a little surprises me. For sure in cases of this consequence and between such near relations, and where there ought to be no distrust on one side, even a consent, if inadvertently given, much less if it can be only presumed, ought not to be insisted on, and that so as to affect a marriage where innocent persons, who have nothing to do with this transaction, are concerned.

I shall conclude with saying the writings are against me. I don't pretend to deny it. I will not say I did not read them, but I find no one man in all England can say that he ever had any discourse with me, or had my consent in specific terms, to part with this valuable power, or that it ever was proposed to me in any manner whatever, except by inserting it in these papers, and that without taking any notice of the variation of the power of revocation from what it is at present.

I am with the greatest respect

My Lord

Your Lordship's

Most obedient

humble Servant

HOLLES NEWCASTLE.

P.S. I have desired Mr Stone to acquaint my Lord Lincoln with all the particulars of this harsh proceeding*.

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 365, II. 60, f. 74.]

POWIS HOUSE, Oct. 14, 1744 at night.

MY DEAR LORD,

Whether I may be allow'd to make use of an appellation which imports in it something reciprocally affectionate, I fear I

* N.B. The D. of Newcastle was much out of humour at this moment with my Father (I daresay [*i.e.* I am sure] very unjustly) for rather siding with Mr P[elham] in this dispute. I have heard him say—he was tired with carrying water between the br[other]s. II.

have reason to doubt, after the letter just now deliver'd me by Mr Stone.

However I will venture to do it, since nothing ever shall, or ever can alter, on my part, that attachment, affection and duty which I must always bear in my heart towards your Grace. You sent Mr Stone to me last night to require my opinion upon an affair and the consequences of it, mainly concerning your Grace, and almost all the branches of your family. I was sensible that, in a case so circumstanc'd, it was a hard and almost insupportable task upon a common friend; and I said so at the time. But I should have been a traitor to your Grace, if I had not sent you my opinion, weak as it was, with sincerity and uprightness. I see the effect it has had upon your mind, both by your letter and what Mr Stone has related to me. What more to say I know not, nor did I ever in my life, find myself in so miserable and anxious a state. My fears may make me judge wrong and I hope they do; but it looks as if I was suspected of some kind of partiality towards your brother. How can I possibly have it between you two? Where are my primary obligations? Where must be my primary and ultimate affection? If your Grace had been my own brother and he an absolute stranger, the dictates of my own mind and the opinion which I should have given, would have been just the same.

The resolution which you seem to have taken and the consequence which you declare must follow from it, in any event, is the most dreadful one which can happen. An absolute breaking off of all correspondence with your brother and his family! What can be more fatal either in a public or a private view? Give yourself leave, my dearest Lord, to reflect for one moment upon the appearances in the world, the misconstructions of mankind, the unhappy situation on every side for your friends, your family and yourself. It is not my intention now to enter into the matter with you. It is fully understood, and I have said upon it all that my distracted mind can suggest. Consider, I beseech you, how long this treaty of marriage has depended, and that (besides the consideration of the parties interested), the men of business employ'd on both sides, and who have been suffer'd to proceed on this foundation, are of the highest characters for ability and integrity in their professions, in the whole kingdom. Amongst them states of cases and explanations in writing, left with parties for their consideration, are always esteem'd the fullest and clearest explanations. Mr Solicitor General¹ has

¹ Murray.

been the counsel for your Grace and my Lord Lincoln. For God's sake, send for him on Monday morning; open yourself to him freely and without reserve; and enjoin him to tell you his thoughts equally without reserve, both as to the point of interest and the point of honour. I know nobody is a better judge, of the latter more especially, than your Grace, and yet a communication of sentiments may tend to clear and ease your own anxious mind.

No mortal breathing has either seen or knows one word of what I have writ. I pray God direct you; my heart is too full to add more, except that I am and for ever will be

My dearest Lord

most sincerely, most faithfully and entirely yours

HARDWICKE*.

[H. 60, f. 76; N. 18, f. 367.]

[In a further letter, [Oct. 15], the Duke, though now somewhat mollified with regard to the Chancellor, still maintains his former opinion of the cruel way in which he has been treated.] But it is over; I sign tonight, and to shew how little I was to be suspected and that I am not what others are to me, had my brother not had a heart of stone, but relented, rather than for ever forfeit my friendship and affection, I had taken the resolution to order the Solicitor General to prepare an instrument for me to sign to the purport of what is now torn from me†.

[N. 18, f. 369.]

[The Chancellor replies the same day. Differences of opinion no man can help. It will happen in matters private as well as public; and it ought to create no difference or diminution of affection, where one has reason to be satisfied of the uprightness, tho' possibly weakness, of the intention.] But, as your Grace says you differ from me so widely in your way of thinking, I humbly beg and entreat that my sentiments may not be allowed to have any weight with you in this unhappy affair. It was for that reason I presum'd to desire that you would consult Mr Solicitor upon it.... My reason for using the words the *point of interest*¹ as well as the *point of honour*, was because your Grace in yours to me had call'd it *this valuable power*, and no man can be blamed for attending in

* N.B. My father had certainly obligations to the D. of N. at the outset of his life, but why he always so overrated them, I am at a loss to account. H.

† This private difference was singular enough when the two brothers were contending in the Closet with Lord Granville. H.

¹ This was much objected to by the Duke, N. 18, f. 368; H. 60, f. 76.

a degree to the point of interest in an affair of property. One thing further I must beg, almost upon my knees, which is that your Grace would not suffer that sharpness and acrimony towards a certain quarter¹ to remain upon your mind. It is to a trifle as bad as not doing the thing at all and will have as fatal effects.

I am, and will never cease to be with the most inviolable attachment and affection,

My dearest Lord [etc.]

HARDWICKE.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 86.]

CLAREMONT, Nov. 3, 1744.

MY DEAR LORD...

My brother will acquaint you with what passed yesterday in the closet where he supported our paper with all the firmness and judgment imaginable². The effect it produced was *sullenness, ill humour, fear*, a disposition to acquiesce, if it could be done with Lord Granville's approbation. In that is the whole. This appeared plainly by the King's looks and discourse to Lord Granville and me together. He addressed himself to Lord G. "It is time to think of a speech; we must speak plainly and lay the whole before the Parliament." Lord G. "Two days will do that, Sir." "No, my Lord, this speech may require much alteration; we can add good news if it comes at any time, but we must ask the support of the Parliament."...The King went on, "My Lord, you *should* write to Holland; we must know what the Dutch will do." "Sir I have done it already. If it is right to insist on declaring war, I believe your Majesty must write another letter yourself." I said little, got out of the closet as soon as I could, but you may imagine approved certain parts of His Majesty's discourse. He afterwards sent for Lord Granville alone; he staid about five minutes, said nothing to us afterwards of what had passed. The audience was so short, I suppose the fact only was told, probably with assurances of his support and recommending managements and some compliance to Lord Granville. I conclude this day the scheme of conduct will be settled between the King and Lord Granville which will, I believe be, what I always foresaw, a seeming acquiescence, depending upon Lord Granville's *savoir* to defeat it afterwards, and draw us on. This is, what I most dread, and I own, I think, nothing will prevent it but a concert *entamed* in a proper manner, directly with Lord Ches[terfield]. I have now delivered the paper in the manner you all like. My brother has well supported it. You will be so good as to do it tomorrow or Monday, and I beg you would explain it to the King; but firmness is beyond all argument. Lord Harrington must soon

¹ His brother, Henry Pelham.

² See pp. 332 sqq.

follow and I think the Duke of Dorset and the Duke of Argyll; the first, I am persuaded, will. I wish you would let me know by a line on Monday morning what has passed that I may hold the same language with the King. I am my dear Lord, ever yours,

HOLLES NEWCASTLE*.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 88.]

NEWCASTLE HOUSE, Nov. 10, 1744.

MY DEAR LORD,

Your Lordship will not be surprised that I take the first opportunity to repeat my most sincere and grateful acknowledgements for your affectionate, and for me the most honourable testimony and support that ever private friend or public minister had¹. Indeed, my dear Lord, I say what I think, and I doubt not but your discourse will have all the success that its weight, dignity and energy deserve. I made a faithful report to my brother, who is full of the same approbation and thanks that I am. He is obliged to go into the country this morning but returns tomorrow evening, with an intent to meet Lord C[hesterfield]....By what the King said to your Lordship and by Lord Granville's looks afterwards, I should fancy the thing is over and that they will take their resolution this day or tomorrow. Perhaps Lord Granville may desire to be President with a Garter. I own I don't quite see the necessity of flinging him into rage and opposition, if we could, without it, find means of satisfying Lord O[rford] and a certain number of his friends, for without this last we have no ground to stand on....My dear Lord, *perge, age*; nobody but you can carry us through, and you can. I am, my dear Lord, ever most unalterably yours

HOLLES NEWCASTLE.

Lord Bolingbroke to the Lord Chancellor

[H. 239, f. 318.]

BATTERSEA, Nov. 12, 1744.

MY LORD,

I send you two volumes of the letters you desire to see of which a few copies were printed by Pope's direction. The second may give your Lordship possibly some satisfaction ; the first, I fear, is fitter for a young man who begins his studies than for your perusal². With them your Lordship will find some addressed to Pope on metaphysical, or rather anti-metaphysical matters. The

* In about 5 years after, Lord Granville was a greater favourite with his Grace than Lord Ch[esterfield]d, on account of their both supporting the same sort of measures. H.

¹ The Chancellor had an interview with the King after the Pelhams, but there is no record of it.

² Probably the *Patriot King* and the *Spirit of Patriotism*.

letter writ to Wyndham¹ I found, and I send it and with it two others. One was writ to Lord Stair on what he communicated to me from Lord Sunderland². His Lordship took so little care of it, notwithstanding the caution given him in it, that falling behind his *secretoire* it was found by M^e de Mezières, in whose house he had lived, and printed as you see it, for reasons obvious enough. There is likewise a draft of that, which I writ to the late King in 1725, soon after he had brought me into this country. What I pressed for then, and do not even desire now, your Lordship may think was not ill supported³. At least you will see how mean and treacherous a part the Minister in power⁴ acted under the mask of good will. I trouble you no further, I only ask your indulgence to which I have this claim, that I obey your commands, and that I shew myself naked, as it were, to you. I wish to hear that a spirit of conciliation has operated, such as your present distress requires. I am, my Lord, with true respect your Lordship's most obedient and most humble Servant

H. S^t J. L. B.

It may be proper to say by way of postscript that tho' some things in the letter to Pope may appear heterodox, they will be more so relatively to theology which I do not much esteem, than to evangelical religion which I respect as I ought. Many inaccuracies must be excused, since they were never corrected, nor read by me since the first heat in which they were writ....

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 90.]

NEWCASTLE HOUSE, Nov. 16, 1744.

MY DEAR LORD,

I would not give your Lordship the trouble of calling upon you this evening, because I was sure you would be much more usefully employed without me. My Lord Harrington was with the King this morning an hour and a quarter. His Majesty began by expressing great resentment and rage that the Speech was not yet prepared; that he had often ordered it; that he would have it done immediately and much more to the same effect. My Lord Harrington, my brother and I therefore beg your Lordship would be so good as to finish the draft of the Speech as soon as possible, in such manner as you shall think proper. I am clearly of opinion that it should be a general one; I mean without any reference or view to a subsequent Speech. The King declared to my Lord Harrington his dislike of what was doing in pretty much the same terms he has done before, upon which my Lord Harrington

¹ His well-known *Apologia*, written in 1717 to Sir William Wyndham, after his abandonment of the Pretender's cause.

² In 1726 Lord Sunderland negotiated with Bolingbroke in France on behalf of the English Government.

³ See above, p. 96.

⁴ Sir Robert Walpole.

expressed his desire that His Majesty would allow Lord Granville to endeavour to carry on his affairs. The King said that was impossible; that Lord Granville could not stand it; that all the great Lords were united against him, and by their means and their influence, a majority of the House of Commons (and this His Majesty was pleased to attribute solely to me, tho' in the course of the conversation and upon other subjects he talked with full as much acrimony of my brother as of me). He added that Lord Harrington must be Secretary of State and must go to Holland. Lord Harrington represented that there were many things that must be previously considered and settled; that it was absolutely necessary His Majesty should give his support and confidence to those, whoever they were, that he should make his ministers. The King said in answer to this; How could he support measures that he thought so wrong? that the view was to abandon our allies and put a shameful end to the war as was done in 1712; that the pretext was the Dutch not furnishing their quotas, which would end now as it did then, in making a dishonourable peace, to all which Lord Harrington made the proper answers. A great deal was said in a very flattering way to his Lordship; that he was a man of sense and a cool man; that Lord Granville always spoke very respectfully of him; that he must remember the confidence the King formerly reposed in him¹; that it was not His Majesty that removed him from his employment, that it was not Lord Granville, but that it was the Pelhams who did it. In short, Lord Harrington is of opinion that the view was by personal flattery to disunite him from us and to engage him, in concert with the King, to carry on Lord Granville's measures; and I think His Majesty's scheme was, that if Lord Granville could stay in, he should write and act as we should advise; but if Lord Granville was to go out, Lord Harrington should execute Lord Granville's plans and schemes....

Duke of Newcastle to the Lord Chancellor

[N. 18, f. 427; H. 60, f. 93.]

NEWCASTLE HOUSE, Nov. 19, 1744.

MY DEAR LORD,

I am sorry to interrupt you, even with a letter; but as my own situation, at present, is so very delicate and your Lordship's advice and support are my chief, I may say my sole, dependance, I cannot avoid laying my case once more before you. I could observe last night some of my friends, and particularly the Duke of Dorset*, mighty desirous to have Lord Granville's resignation; and

¹ Lord Harrington had formerly supported the King's Hanoverian measures and had negotiated in 1741 with France the neutrality of Hanover. He was removed from the office of Secretary of State and control of foreign affairs to the Presidency of the Council on the reconstitution of the administration in 1742.

* D. of Dorset secured by a promise of being Lord President. H. [Lionel Cranfield Sackville (1688-1765), first Duke of Dorset. He had filled various high offices in the

our acceptance once secured, I could observe also the disposition to exclude me absolutely, as an obnoxious man, from taking any step in the closet towards settling the future administration. How far this principle of convenience may extend itself, in our future considerations, cannot yet be known; and I may be suffer'd or oblig'd to dangle on with my bag as an useless cypher, because the closet has conceived an unjust prejudice to me; and how far others, and particularly my brother Secretary, may avail himself of that prejudice in the King and that acquiescence in others, I will not yet determine. The only adequate remedy I can think of is the writing the inclosed letter to the King, which I should beg the favour of your Lordship to present tomorrow to His Majesty. This once done, I am either out of the galley or at least upon an equality with others, both in the closet and out of it. I shall take an opportunity to talk to my brother to this purport in the course of the day; and shall certainly ultimately do nothing but what your Lordship shall advise, and he consent to. But if my own method and inclination must not be pursued, I cannot think of going on without these two previous assurances substituted in their place, founded upon this certain knowledge, that your assistance, support, and *partiality* are alone what can or shall carry me through. First, that you would have the goodness to talk to the King tomorrow upon my subject; the cruel and unjust prejudices conceived against me, and particularly as to that imputation or charge of threatening the King *to resort to the constitution*; which, as it never could be in my thoughts, I could not have the audaciousness to fling out, in the King's Royal presence. My words, upon my honour, were these. His Majesty talking of the difference of opinion amongst his ministers, said, "It is hard if *I* may not determine amongst you," or to that effect. To which, I very well remember my answer was, "To be sure, Sir, your Majesty ought, must, and does; but then *as is the Constitution*, your Majesty will have the goodness to excuse those from executing what they think wrong or not for your service." His Majesty made not the least observation upon it, nor seem'd by what pass'd afterwards, to have taken any notice of it. The next thing, I must insist on, if I do acquiesce in dropping the letter¹, is that your Lordship, who have a partiality for me, will have the goodness to support me, when you think I am in the right, in any differences I may have with my brethren. The administration, I suppose, must be your Lordship, my Lord Harrington, my brother and myself. Union in sentiments as to affairs of war and peace, union in situation as to the closet, will unavoidably link Lord Harrington and my brother together. But your Lordship's

reigns of Anne, George I and George II; Lord Steward of the Household and Lord Warden of the Cinque Ports; Lord-Lieutenant of Ireland (1731 to 1736). In 1736 reappointed Lord Steward and in January 1745 became Lord President of the Council. From 1750 to 1755 he was again Lord-Lieutenant in Ireland when his administration was disturbed by serious opposition (see below, chap. xx).]

¹ To the King begging for permission to resign.

weight and superiority will always give activity to the few qualifications I am possessed of. I have thus open'd myself most freely to you. I know my *duty* (to my friends) and I know my *danger*. I shall certainly be determin'd by you, and for the present rest satisfied, whatever that shall be; tho' I really think the letter would, one way or other, cure all. The Duke of Dorset, Harrington, Winnington¹ and all the *Confidants* think I cannot be bore in the closet. What hand, what figure shall I make in settling our new administration? And if I have, or am thought to have, no hand in settling it at first, how can I possibly support *my part* in it afterwards?

I am, my dearest Lord, ever your's

HOLLES NEWCASTLE*.

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 429.]

POWIS HOUSE, Nov. 19, 1744 at night.

MY DEAR LORD,

I have the honour to send your Grace inclosed the draft of the Speech as now finished by me, together with the draft of a motion....I have also prepared the sketch of the Address....

I have read over more than once with great attention and concern the letter with which your Grace honoured me today. It is a subject more fit for discourse and expostulation than writing; and I am sure I am not sufficiently master of the intrigues and ways of a court to know what to advise upon it. But I sincerely think that, if the letter which you have drawn and is inclosed should *now* be sent, it would at once put an entire end to the whole scheme, which your Grace, and your friends have been labouring at. You cannot but observe that I feel and lament the situation as much as any one, and for your Grace's *particular*, I cordially adopt it as my own. I hope you have, as you intended, fully talk'd it over with your brother, and settled your own thoughts upon it. Permit me only to entreat and conjure you upon one point, which is, that you would not suffer suspicions to grow up and find a place in your mind concerning those friends whom you brought together, and with whom you have hitherto acted and made so great a stand. I must confess I did not discern the disposition your Grace mentions to exclude

¹ Thomas Winnington (1696-1746), M.P. for Worcester, a staunch supporter of Walpole, who had given him office. He now held that of Pay-Master General.

* The D. of N. was always restless, uneasy, dissatisfied with the situation he was in, the moment the change he wished for, was made, and setting his best friend in the *gap* for him on all occasions, who could very well have gone on without him. H.

you from taking any step in the Closet towards settling the future administration. As to my carrying the draft of the Speech tomorrow, I protest I would not have undertaken it, but that I thought it was your command, and that you were going almost to be angry with me upon an apprehension that I was about to decline. It is by no means an agreeable task, but the being a little enur'd to storms makes one less anxious about them.

As to the two points which your Grace requires of me, the first to be executed tomorrow, the latter in future, you may depend upon my faithful performance of them both to the best of my ability, in the sense wherein I am sure your Grace means them. Indeed, my dear Lord, there is nothing which my obligations, attachment and devotion to you can demand of me, which I will not execute with zeal. Sensible I am of my defects, and that you can never want so poor a support. Your future brother Secretary's¹ want of parliamentary talents will always make him, in a great degree, dependent upon you and your friends, and will tend to make you much the easier in other respects.

I presume it will not be proper for me to mention to the King the mistake you take notice of about *resorting to the Constitution*, unless he touches upon it to me. If he does, I will certainly give it the proper answer. I really do not remember whether it came round to us by His Majesty's speaking of it to my Lord Harrington, or from my Lady Y[armouth], thro' the Duke of Dorset. If the latter, to be sure it cannot possibly be *first* touch'd upon to the King.

I am ever [etc.]

HARDWICKE.

¹ Lord Harrington.

CHAPTER XIII

THE BROAD BOTTOM MINISTRY AND THE BATTLE OF FONTENOY

LORD GRANVILLE'S resignation took place only three days before Ministers had to confront the Parliament on November 27. In the following paper the Chancellor records his thoughts on the political situation and the reconstitution of the administration, which was now an urgent matter.

[H. 60, f. 80.]

REFLEXIONS UPON THE CHANGES MADE IN 1744.

The principal point of the public service and the great object of the King at present is the war, in which we are engaged against France and Spain.

It is necessary to be carried on till a reasonable peace can be obtained

For the sake of Great Britain :

For the sake of her allies.

To carry it on with any prospect of tolerable success will require vast sums of money and greater annual expenses than in the last war, considering H[olland] insists to take upon itself a much less share of the burden than that Republic then did.

This will occasion great discontents and difficulties at home, unless some method can be found out to reconcile the minds of men to the management of the war, and to make it in some degree popular.

Without this it will be impossible for any Ministers to raise such large supplies and to induce the people to bear such heavy burdens.

The main question is, by what means may the administration gain such a strength as to be enabled to do this?

The present Ministers are sincerely for carrying on the war, if it can be made practicable.

The body of the Whigs, who are attached to them, are well inclined to support them in it.

The Earl of Granville, who has just left the King's service has, in order to preserve and secure his Majesty's countenance and favour, given him strong assurances that he and all his friends and followers will support the war to the utmost, and even outgo the Ministers upon this head. On this they erect a claim of superior merit and the hopes of future advantages to themselves.

If they disappoint the King in these assurances, they will destroy their own scheme and spoil their own game.

As to the body of the Tories and the present opposition, the removal of the Earl of Granville is so popular amongst them, occasioned either by his ill-management of the war* or particular provocations, or both, that now that management is taken out of his hands, they profess themselves ready to concur heartily in that, in which they have given ample proofs that they would never have joined with him.

But this concurrence they will never grant, nor is it to be expected from them, without advantages and favours from the Government....This cannot be attained without bestowing on some on them honours, on others lucrative or honourable employments.

But it may be attained without letting any of them into places of great power at Court or considerable influence in the Country.

By the help of such a scheme all divisions of men in Britain may be united in Parliament in the support of the war. This would carry the people in general along with it, and the support of the war be made a national measure.

From hence would follow great facilities in raising the supplies, and vast sums might be raised and heavy burdens borne with much less murmuring and discontent than moderate ones could be on any other system.

In carrying on the war the King would appear at the head of his whole People, which would give him strength against his enemies and (which is in the next degree material) strength and authority with his allies....Against this scheme some objections may be made which deserve to be considered.

1st objection: By taking in the Tories the old corps of Whigs, who adhere to the present Ministers, will think their party ruined

* There was neither union in our Councils with the allies, nor concert in our projects, nor order or dispatch in our preparations, nor vigour in the execution.

or greatly endangered, be frightened and discontented and at last alienated from the Ministers.

Answer 1: If the scheme be set about with discretion and the old corps of the Whigs see that no material Court power or Country influence is put into the hands of the Tories, their jealousies will be quieted and the alarm subside.

Answer 2: What will tend to give entire satisfaction to the old corps of Whigs is to create a conviction in them that this measure was absolutely necessary for their preservation. It is hoped that this may be done by fully informing them of my Lord Granville's unlimited and repeated offer to the opposition, that in case they would unite with him, the *Broad Bottom* should be taken in without exception or reserve¹. It is obvious that could not be done without removing the whole body of the Whigs who have adhered to the present Ministry, and consequently it was to stipulate for his own safety and power at the price of their destruction. This then was their option...whether a majority should be taken out of the opposition *to direct* or a minority *to be directed*.

Answer 3. If reasoning should not fully satisfy the old corps of Whigs, fact and experience may complete the work. When they shall see the room made for such of the opposition as shall be taken in, is carved and allotted out of the places and employments of the new part of the Court², who came in upon my Lord O[rford]'s dismission and none of the old corps hurt by it, they will probably be convinced that their friends have acted a sincere and upright part by them....

2nd objection. The new part of the Court will say that this is a breach of faith in the present ministry, a violation of the *pacta conventa*³, on which they came in, and that it is also ungrateful, since their uniting with the present Ministers at the time they did it saved them from the then impending ruin....

Answer. ...Admitting that there was such an agreement, as is supposed in the objection, that agreement was reciprocal; and if it has been violated on one side, it is discharged and annulled on the other....

These gentlemen came in under my Lord Granville. He was the Minister to act and answer for them; for as to my Lord Bath he took no employment, did not make himself any part of the Court and on many occasions professed to remain independent.

¹ p. 336.

³ So termed by Lord Bath.

² The followers of Lord Bath and Lord Granville.

How has my Lord Granville kept these *pacta conventa*, this pledged faith?

Ever since his return from Germany he has taken all opportunities to lessen the credit and destroy the power of the present Ministers with whom he stipulated for himself and his party.

It is apparent from facts that he has made use of this influence which, by means of their introduction at first, he gained in the Closet, to alienate the mind and affections of the King from his old servants, with a view either to remove them or to make them entirely dependent upon himself.

Either of these is equally a breach of the original contract supposed in the objection.

But not to rest on these—the offer before mentioned of carte-blanche to the opposition, to bring them into the places of the present Ministers and their friends, is such an overt act of conspiring their ruin as is incapable of any answer. It turns what is falsely called a breach of faith into necessary self-defence against a manifest breach of faith on the other side.

3rd objection. But particular persons may object—what have we done? We did not authorize or intend my Lord Granville to answer or act for us, and we have personally adhered to our engagements.

Answer. Some cases of particular persons may deserve compassion and...some distinctions could be made; though how far the supposed *pacta conventa* have been performed by many, even of the principal particular persons of the new part of the Court, I leave to be stated and cleared up by those who have been witnesses of their conduct in the House of Commons and in the respective offices, wherein they have been employed.

But the general irrefragable answer to this objection is that such stipulations for parties or administrations are never made, nor can be supposed to be made, with individuals....The person taken in at their head, and on that foot coming into the ministry, is by common presumption and the necessary course of business, understood to answer for them. If this were otherwise, it would be impossible to transact such stipulations, and the head of the party taken in would be at liberty to act as his own ambition or levity should lead him; and if, at last, he should himself think fit for his own security to quit his station, might leave all his followers entailed upon those Ministers, with whom he had broken his faith, to intrigue, annoy or betray them, either in the Court or in the

Parliament, as he should direct or whisper after he was out. Whether this can be the consequence or common sense of such a bargain, as is supposed in the objection, especially in a country constituted as Great Britain is, must be left to any impartial bystander to judge.

Lord Bolingbroke had visited England in 1742, inspired with hopes of office on the fall of Walpole, and had renewed his old acquaintance with the Chancellor, who had in earlier years pleaded his cause in the Law Courts and House of Commons and of whose disinterested support and friendship, at a time when he was shunned by the great men in power, he speaks with special gratitude¹. He sent to Lord Hardwicke some of his writings in manuscript, including his letters to Pope, accompanied by some prudent apologies for their seeming unorthodoxy and protesting his respect for "Evangelical Religion²." He had long conferences with the Chancellor, and letters passed in which he gave his opinion and advice on foreign and domestic policy. On October 21, 1744, Lord Bolingbroke gives an account of some of these conversations: "He said that he had talked over the state we were in with the Chancellor who had agreed that it was inextricable: that we now paid in subsidies £250,000 a year, over and above the £500,000 to the Queen of Hungary and the King of Sardinia: and he did not see how we could go on, supposing the Dutch to remain as they are which, Carteret says, is all he desires³...; that he [Lord Bolingbroke] had told the Chancellor that as to their conduct on the Treaty at Hanau he thought as the Chancellor did. The Chancellor asked what the opposition thought. Lord Bolingbroke said the reasonable men among 'em whom he talked with thought on the general state of affairs, on the Treaty of Hanau and on what was to be done, just as they two did, that perhaps they might not speak to the Chancellor so freely as they did to him⁴." He fully approved of the Chancellor's memorandum on the state of the war delivered to the King on November 1⁵. He offered his good offices with Lord Chesterfield and the Tories in the construction of the new administration⁶, concerned himself through his connection with Noailles, the French Minister, nephew of the second Lady Bolingbroke⁷, who desired the termination of the war,

¹ Above, p. 310.

² Above, pp. 362, 367.

³ See below, p. 386.

⁴ *Marchmont Papers*, i. 65.

⁵ Above, p. 322.

⁶ pp. 362, 391.

⁷ Note by the second Lord H. on a letter of Lord B.'s of August 16, 1744 (H. 239, f. 277).

with the negotiations for peace¹, and in various ways endeavoured, perhaps with success, to render useful assistance. These services were generally accompanied by emphatic repudiations of all political ambition and by a somewhat ostentatious insistence upon the charms of country solitude: but there can be very little doubt that the chief motive of Lord Bolingbroke's activity at this juncture, and of his renewed friendship with the Chancellor, was the hope of being placed once more in office.

When it was seen, however, that these expectations had no prospect of realisation, Lord Bolingbroke's correspondence with, and visits to Lord Hardwicke abruptly ceased; and the former, once more disappointed, joined the Leicester House faction and transferred his allegiance to the Prince of Wales². "That man is at fourscore," said his Royal Patron of him, "just what he was at forty³."

Lord Chesterfield, much against the King's inclinations⁴, was brought in and made Lord-Lieutenant of Ireland and Ambassador at the Hague, while several Anti-Hanoverians and Tories, including the Jacobite, Sir John Hynde Cotton, were given subordinate

¹ I believe Lord B.'s advices came from the Noailles quarter and the Marquis Matignon"; and see p. 391. Adrien Maurice, due de Noailles (1678-1766), nephew of the second Lady Bolingbroke, son of Anne Jules, due de Noailles, a distinguished general and statesman: treasurer in 1715 but dismissed in 1718 on account of his opposition to Law's finance, became one of the Council of Regency, marshal at the siege of Philipsburg 1733, and minister of State 1743 till 1756. Marquis de Matignon, Comte de Gace, a connection of Lady Bolingbroke.

² E.g. Lord H. writes to the D. of N. May 30, 1745 that another "general insinuation" about a peace had come to Lord Bolingbroke from the same hand, but that the latter had been told to answer that no one in England could venture upon anything of that kind. N. 19, f. 326; pp. 356, 391.

³ It is strange that the second Lord Hardwicke, usually a well-informed and intelligent spectator of events, should have been puzzled by Lord Bolingbroke's attitude. In a note which he appends to the last letter from Lord Bolingbroke to his father, dated November 18, 1745 (H. 240, f. 160), he writes: "It is singular enough that this should be the last scrap of paper from Lord B. to my Father with all the professions of friendship interspersed in them. I cannot account for it and never asked my Father how it happened. He was rather reserved about his intercourse with that Lord. I believe Lord B. went afterwards into connections with L[eicester] H[ouse] and when the Pr. of W[ales] died was one of his first Ministers. He would, from his experience and his abilities, have been a better than those who succeeded him in that court. However, the prejudices against him were strong. Lord H[ardwicke] was probably cautious about having it known that he had intercourse with Lord B. and his own friends were jealous enough, particularly the D[uke] of N[euecastle]." But there was no mystery or secret whatever in their relations. See D. of N. to Lord H. January 5, 1745 postscript, H. 60, f. 115 and the *Marchmont Papers*, i. 65-97: and N. 19, f. 41, where the Duke of Newcastle writes to the Chancellor on January 26, 1745, "I should be glad that you could have an opportunity of learning the ideas of your friend L. B.: could you not contrive to see him in the course of tomorrow?"

⁴ Walpole, *George II* (1847), i. 223.

⁴ p. 389.

places, and the administration, thus reconstituted, was styled the Broad Bottom Ministry on account of the various factions it was supposed to include. The King, however, returned an absolute and indignant refusal, not unnatural in the circumstances, to the proposal of the Ministers to bring in Pitt as Secretary of War, who received therefore only the assurances of their endeavours to reconcile the King to him, promises which were faithfully kept but which for long availed nothing.

In the result, the influence of the Pelhams was more firmly established than ever. Of their two most redoubtable antagonists, Lord Granville had been driven from the Cabinet, and Pitt, influenced by the hopes of office, gave strong assurances of his present contentment and of his support¹. In a trial of strength between the Crown and a single favourite on the one side, and the rest of the Cabinet, the Parliament, and the nation on the other, the former had been defeated and party government had triumphed. The Cabinet obtained further strength also by a favourable change in the attitude of the King of Prussia, who expressed satisfaction at the removal of Lord Granville, the latter in following the King's Hanoverian jealousies having persistently treated Frederick with marked hostility². The King, however, showed openly his dislike of the successful ministers. He maintained an attitude of sullen defiance towards them and continued to make plans for superseding them. On December 20, 1744, Andrew Stone, the Duke of Newcastle's secretary, informs the Chancellor that great alterations and removals were intended in March and "calculations of strength and lists of persons making every day³." The continuance of such relations between the Sovereign and his Ministers threatened to bring to a stop the whole machinery of Government, and at length the Chancellor, who was usually chosen for such offices, was commissioned by the rest of the Cabinet to beard his Majesty in the Closet and to make a final endeavour to establish the administration on a better and more practicable basis⁴. Of this strange interview, which took place on January 5, 1745, Lord Hardwicke has left an account in his own handwriting, from which it will be seen that the dispute included much more than the dismissal of Lord Granville, and involved the whole question of constitutional Government as settled by the Revolution.

In forwarding his narrative the Chancellor states that he put it

¹ Philip Yorke's Journal, *Parl. Hist.* xiii. 988.

³ H. 60, f. 110.

² H. 60, f. 101.

⁴ p. 391.

down in writing the moment he came home before dinner¹. "It is faithfully related from a very fresh correct memory, and tho' I will not answer for the placing of every individual word, I would be sworn to the exact sense and to every material word....I must beg and do insist that your Grace should neither shew it nor read it to any one but Mr Pelham. I exclude every mortal but your brother; because it may possibly come round to the King, that one writes down and shews what passes in the Closet, and what turn may be given to that nobody can foresee. I will make no observations but leave the whole to your reflections. All I will add is that the manner was not rude, rough or snappish. I must resort to my favourite wit, the Duke of Bolton². *How difficult it is to persuade some people to be on their own side!*"

NOTES OF AUDIENCE 5th January 1744³.

Chancellor. Sir, I have forborn for some time to intrude upon your Majesty, because I know that of late your time has been extremely taken up. But, as the Parliament is now to meet again in a few days, I was desirous of an opportunity of waiting upon your Majesty to know if you had any commands for me. If there is anything which might be agreeable to your Majesty to give me your commands upon.

Pause of about a minute and the King stood silent.

Ch: Sir, from some appearances which I have observed of late, I have been under very uneasy apprehensions that I may have incurred your Majesty's displeasure. And though I am not conscious to myself of having deserv'd it, yet nothing ever did, or ever can, give me so great concern and so sensible a mortification in my whole life.

Pause of about a minute and the King quite silent.

Ch: I beg your Majesty will have the goodness and condescension for me to hear me a few words upon the motives of my own conduct, the nature of your present situation and the manner in which it, I humbly think, may be improv'd for your service.

Whatever representations may have been made to your Majesty I, and those with whom I have acted, if I know them at all, have

¹ N. 19, f. 3.

² Charles Powlett, first Duke (d. 1699); see Burnet's description of this strange personage (*History of His own Time*, ii. 225).

³ II. 522, f. 87.

had no view in the whole that has pass'd of late, but your service and that of the public.

I consider'd with myself that the principal point of the public service, and your Majesty's great object at present is the carrying on of the war, and though your Majesty may have been told that we were against the war, that was a misrepresentation; we were zealously for it; but we were for it upon some practicable plan and in such a way as we might see it could be supported. I was always convinc'd that, as your Majesty was engaged, it was necessary to be carried on till an opportunity should arise of making a reasonable peace, for the sake of your Majesty, for the sake of your allies.

I saw at the same time that in the condition and disposition, in which your allies are at present, it would require vast sums of money and perhaps greater annual expenses than this Country ever bore in any former war, either King William's or Queen Anne's.

It would be impossible for any administration to carry this through without taking some methods to reconcile the minds of men to the management of the war, and making it in some measure popular.

This could not possibly be done without taking the nation, to a certain degree, along with you.

I beg your Majesty would consider the situation you are now in. Your old servants and the old corps of Whigs, who are connected with them, are ready and zealous to support you.

The gentlemen, who are newly come in, have come in upon that foundation, and have bound themselves by their declarations and engagements to support, by themselves and their friends and followers, the measures for carrying on the war, and I think the strongest of those measures have been open'd to them.

The gentlemen, who have lately gone out of your service, have, for reasons best known to themselves, declared that they will concur in all measures to support the war and pretend to build a merit upon it.

For my own part, I never saw or heard of a situation which, if rightly improved, afforded a prospect of greater advantage to the Crown than this.

In Parliament there have been generally three parties:—The Court party, a determined opposition and a flying squadron. But I never yet saw a time in which all those three parties were brought to declare for the support of the Government in the grand essential

measures of that Government, and of which for some time all other measures will be but parts, or else subordinate to it.

There are two points for the support of the war. One is the great and extensive proposition from Russia¹, though that can't be brought about without a large new burden; yet, if it can be turn'd in any particular shape, I see a great disposition to make it effectual. The other is the additional subsidy to the Queen of Hungary, which will be a method of keeping up your Majesty's Hanover troops for two views combined together; I mean the defence of your German dominions and the support of the Common Cause according to the general reason of the war. For this also they have engaged.

King. As to that, if they don't like it, I am very easy: I don't desire it for my own sake. I can call home my troops for the defence of my own dominions.

Ch: I don't mention it in the view of a particular point of your Majesty's, but as part of the general system of carrying on the war and as an instance of their readiness to comply with expedients to get over their old prejudices.

But, Sir, there still remains something very material behind; how this situation may be best improv'd and the advantages of it not to be lost.

K: I have done all you ask'd of me. I have put all power into your hands and I suppose you will make the most of it.

Ch: The disposition of places is not enough, if your Majesty takes pains to shew the world that you disapprove of your own work.

K: *My work!* I was forc'd: I was threatened.

Ch: I am sorry to hear your Majesty use those expressions. I know of no force: I know of no threats. No means were us'd but what has been us'd in all times, the humble advice of your servants, supported by such reasons as convinc'd them that the measure was necessary for your service.

K: Yes, I was told that I should be opposed.

Ch: Never by me, Sir, nor by any of my friends. How others might misrepresent us, I don't pretend to know; but, whatever had been our fate, and though your Majesty had determin'd on the contrary side to what you did, we would never have gone into an opposition against the necessary measures for carrying on the war and for the support of your Government and family. For myself,

¹ In 1747 negotiations ended in a convention with Russia by which England paid £100,000 yearly to the Czarina for Russian troops.

I have serv'd your Majesty long in a very laborious station, and am arrived at a length of service which makes me very indifferent as to personal considerations. Taking your money only is not serving you, and nothing can enable one to do that but being put into a possibility and capacity of doing so by your gracious countenance and support.

But, Sir, to return to what I was mentioning, of making the proper use and advantage of your present situation.

K: The changes might have been made by bringing in properer persons and not those brought in, who had most notoriously distinguish'd themselves by a constant opposition to my Government.

Ch: If changes were to be made in order to gain strength, such persons must be brought in as could bring that strength along with them : otherwise it would have been useless. On that account it was necessary to take in the leaders and that with the concurrence of their friends : and, if your Majesty looks round the House of Commons, you will find no man of business or even of weight left, capable of heading or undertaking an opposition.

Pause—the King silent.

Sir, permit me to say the advantage of such a situation is a real advantage gain'd to the Crown. Ministers may carry their points in Parliament, and frequently do so by small narrow majorities, and in this way they may struggle on long : but by the same way the Crown always loses both its lustre and its strength. But when things are put upon a national foot by a concurrence of the heads of all parties, and yet so as not to overbear or discourage your old friends, then a real solid strength is gain'd to the Crown, and the King has both more power to carry his present measures for the support of his Government and is more at liberty to choose and act as he pleases. Your Ministers, Sir, are only your instruments of Government.

K: (*smiles*) Ministers are the Kings in this Country.

Ch: If one person is permitted to engross the ear of the Crown and invest himself with all its power, he will become so in effect ; but that is far from being the case now, and I know no one now in your Majesty's service that aims at it.

Sir, the world without doors is full of making schemes of an administration for your Majesty for the future ; but whatever be your intention for the future, I humbly beg that you would not spoil your own business for the present.

K: I suppose you have taken care of *that*: if you do not, or have not success, the nation will require it at your hands.

Ch: If right measures are not pursued nor proper care taken, then the nation will have reason to require it; but success is in no man's power, and that success must greatly depend on your Majesty shewing a proper countenance and support to your servants and to what you have already done. I humbly beg to recommend it to you for your own sake and for the sake of carrying those points, which are essential to you and the Kingdom. In times of peace sometimes a session of Parliament may be play'd with and events waited for; but in a time of war and of such a war as this is, the case is quite different; and the ill success of it will not be the ill success of the ministry but of the Crown. It may be the loss of the whole.

A Pause—The King silent.

Sir, there is another advantage that may be made of your present situation, which I think a very material one. The swarms of libels which have gone about of late years have greatly hurt the credit and weakened the strength of the Government, and that weakness has produced an impunity to them. From this source has sprung much of the confusion and disorder which has been so justly complained of. I should think the present situation would afford an opportunity greatly to suppress and keep under that spirit, and though this is the season of the year in which they used to abound, scarce anything material of the kind has appear'd this winter.

K: I myself have seen twenty.

Ch: What strokes of that kind your Majesty may have seen in the weekly papers, I can't take upon me to say: but I have yet seen hardly any libellous pamphlets. In the last winter before this time there were volumes of virulent reasoning pamphlets published, which did infinite mischief.

But whatever has happen'd hitherto, if this work gains some solidity, and operates in the nation, it will strengthen your Majesty's hands and enable the magistrates to punish them effectually. Those who perhaps us'd to patronize and support them will turn against them, and juries will be found more ready to convict them.

Pause—The King silent.

Sir, I ask your Majesty's pardon for troubling you so long but I thought it my duty to lay my poor thoughts before you.—

The Chancellor's intervention unfortunately had little or no result. The King maintained his hostile attitude to the administration and continued his secret communications with Lord Granville¹. No one outside his faction was countenanced at Court². Some months later the Duke of Newcastle sends the Chancellor the following hurried memorandum showing that Ministers had been goaded almost into resigning their offices.

MINUTES. April 9th 1745³.

- [D. of N.] Worse than ever.
 [K.] I have been tricked in the command of the army in Flanders twice.
 The Hanover troops in Flanders.
 The affair of the Duke [of Cumberland and the command in Flanders] and the justices of the peace⁴.
 I will have nothing by halves. No Expedient[?] about the Duke.
 [? Henry Pelham] Pray, Sir, send for my L[ord] G[ranville]. Let him form your administration. It is impossible to go on.
 [K.] I have been worse served than any man was.
 [To my B[rother]⁵ the King has been worse than ever.
 He had been promised the Parliament should rise in a fortnight.
 Damn *it* and *you*. I shall be obliged to strike a strong stroke.
 My brother replied very properly desiring him to do it, to which no answer....]
 [D. of N.] My brother goes to Court on Thursday with the Seals in his pocket to give as he finds things.
 I shall do the same.
 May I wait upon you at 8 or 9 this evening.

¹ II. 60, f. 120.² Walpole's *Letters* (1903), ii. 70.³ II. 522, f. 95.⁴ Probably the appointment of Tories to this office, see p. 392.⁵ Another memorandum of the same by the D. of N., *Hist. MSS. Comm.*, Earl of Lonsdale, 125.

Meanwhile the Ministers, notwithstanding the Royal displeasure, liberated now, both from the favourite in the Closet and from the opposition and obstruction to their policy in the House of Commons, were able to support the war with vigour and energy. Pitt's "fulminating eloquence," says Philip Yorke, who moved the address in the Commons¹, "silenced all opposition." He now perceived that "a dawn of salvation to this Country had broken forth and he would follow it as far as it would lead him²." The foreign subsidies were continued and even increased. The burning question of the Hanoverian troops was disposed of by their nominal dismissal, while their pay was secured to them by an extra subsidy paid to the Austrians. Almost every German Prince received English money, from the £500,000 granted to the Queen of Hungary and the King of Sardinia down to the Elector of Mainz who, after considerable haggling, secured £8,000. On January 8, 1745, the Quadruple Alliance between England, Holland, Austria, and Saxony was concluded, Saxony obtaining £100,000 from England for defending Bohemia, and the sum paid by Great Britain to the allied powers in all amounting to more than £1,178,000³.

The accession of Holland had been carried through by the Duke of Newcastle, in spite of the opposition of Lord Granville and the King, who feared that it would draw with it the necessity of the direct participation of Hanover in the war⁴.

The attitude of Holland had always been a problem of great difficulty and anxiety to the English Ministers. Its preservation from French predominance was of vital consequence to British interests, and the engagement of the Dutch in the struggle against France had rightly been made a cardinal point of policy by the Pelham administration. But though Holland, equally with Britain, desired to prevent any further increase in the dangerous supremacy of her ambitious neighbour and was joined with England and Austria in the Barrier Treaty of 1716, with the object of resisting French encroachments, France was not the only power whom the Dutch dreaded. They were jealous of the increased influence of Prussia and Hanover on the other side, and they had not forgotten the former ill-deeds of Austria. Moreover, they were far from confiding implicitly in England as a disinterested ally.

¹ His speech *Parl. Hist.* xiii. 986.

² P. Y. in *Parl. Hist.* xiii. 1056.

³ Coxe's *Pelham*, i. 217.

⁴ *Ib.* i. 154 sqq.: H. 60, f. 9: and above, p. 377.

Bitter commercial jealousies divided the two States and at times rose to such heights as to make common action against France impossible. According to the ancient league of defence, confirmed by the treaties of 1716 and 1728, the States were under the obligation of sending 6,000 troops to Great Britain whenever she was attacked, and a force of this number accordingly was dispatched to England this year to assist in suppressing the Rebellion. But England never succeeded in attaching Holland permanently as a fighting ally in the European war. Various measures were taken and every inducement held out to the Dutch with this object. Attempts were made to settle the commercial dispute, large sums of money were spent upon the Dutch troops and the King married his eldest daughter to the Stadholder. Later Joseph Yorke, as Ambassador to the States, supported with great energy and ability and with admirable patience the union of Dutch and English interests, and for a time with some success: but Holland never became the vantage ground for attacks upon the French which England desired. On the contrary, the aim of the Dutch was to keep the war at a distance from their territories and to maintain, amidst the contending powers, a neutrality, which they hoped by offending none would secure their own independence¹. Commercial advantages, too, proved stronger than political prudence, and during the war a large trade was maintained with France and naval supplies were furnished to the enemy. In the sequel, the Dutch drifted more and more under the influence of France till the later war with America, when they openly joined France and Spain in the general attack upon Great Britain, and Sir Joseph Yorke returned home in disgust.

These events were, however, in the distant future. Meanwhile, it was manifestly a wise policy to draw every possible advantage both from Holland and from Hanover, and it was not the fault of the English Ministers that they were not more successful. The system of the payment of subsidies to the German Princes is more open to criticism, but it was part of the general policy of diminishing and resisting the predominance of France. It was one already extensively practised by France herself and one to be renewed with great applause and success in later years by the younger Pitt. As a system it cannot be condemned wholesale or on principle, but it was a practice obviously liable to abuse and the results by no

¹ See the elder Horace Walpole's defence of their action in a letter to Philip Yorke of April 9, 1744: Coxe's *Lord Walpole*, ii. 79.

means always justified the sums expended. In some cases, such as the hire of the well-trained and disciplined Hanoverian troops, the advantage secured was considerable; while in others, in which should certainly be included the enormous sums lavished upon Austria, the gain was entirely out of proportion to the expenditure.

On January 20, 1745, the death of the Emperor broke up the alliance between Bavaria and France, and the new Elector soon afterwards, by the treaty of Fuessen on April 20, withdrew his forces from the French army, renounced all pretensions to the Imperial crown and promised his vote to the Grand Duke of Tuscany, the husband of Maria Theresa, who shortly afterwards was chosen Emperor¹. The King was persuaded to declare himself, as Elector of Hanover, a principal in the war; a treaty was concluded by Lord Chesterfield between Holland and England regulating the quota of troops of each power, and in April the Duke of Cumberland arrived in Flanders to take over the command of the allies.

The brighter prospect of affairs abroad, however, was suddenly darkened by the terrible military disaster at Fontenoy, on May 11, 1745 N.S. The losses of the enemy, amounting to about 7,000, were very considerable and nearly equalled that of the allies, while the famous advance of the British and Hanoverians in solid column, unchecked by the cavalry charges of the enemy or by their flanking fire, and unsupported by their own horse or by the Dutch, was such a prodigy of human valour and fortitude that it has provided an immortal theme of national and military glory and transcends now all other memories of the battle. But nearly a third of the British infantry was destroyed, and the retreat was followed by the capture by the French of Tournai, Ghent, Ostend and several other towns². A defeat in the field is rare in British annals; it was the only great battle in modern times in which Great Britain had been vanquished by France, and to the British people, unaccustomed to such disasters, the news came with the shock of an overpowering catastrophe. Concern for the public, and grief for the loss of gallant men, joined to gratitude to Providence which had preserved safe a beloved son in the hour of trial and peril, moved the Chancellor to tears. But his first thought after expressing his thankfulness at his son's escape was to urge upon the regents, upon whom lay all the responsibility for action during the King's

¹ See N. to H., January 26 on the new scene thus opened, H. 60, f. 120.

² See pp. 392 sqq.

absence, the necessity of calling the Council and sending out reinforcements immediately. "Our cause is good, and if not at the first, at last Providence will favour it¹!"

CORRESPONDENCE

Lieut. Charles Vanbrugh to Captain the Hon. Joseph Yorke

[H. 83, f. 19.]

Nov. 1744. Friday evening, BRUSSELS.

MY DEAR ZEKIEL,

... You may remember your reading a sham letter from the Marshal, which Lyon got hold of and roar'd it out to Brigadier C—, who, improving in his usual manner, came the next morning to Carr's and finding only the girls: "Gad," says he, "there is a very extraordinary thing happened, very surprising, though I always suspected it!" "Pray, sir, what is that?" "Why, the Marshal is dying and has made Little Yorkee his heir: the account came last night and he set out post immediately." They kept their countenances, as they say, but made it up with laughing when they told me. Mrs Potiphar is afraid you are too rich for her daughter now, but she has suitors enough left.... There have been many rumours here of the Marshal's sending back for Officers, recalling leaves, etc., but, as Jack R...n says, I don't take him to be that sort of man, at least I should be badly off if he was. I expected the God here to-night, but am told he comes not till Tuesday....

Churchill's beer is immensely good. I wish you was here to drink it, for I love both you and your company, but since I cannot have that, pray, my dear, write me a word....

Yours most implicitly,

C[HARLES] V[ANBRUG]H².

Andrew Stone to the Lord Chancellor

[H. 60, f. 99.]

NEWCASTLE HOUSE, Decr 6th, 1744.

MY LORD,

My Lord Duke will wait upon your Lordship precisely at seven this evening, but thinks it necessary to acquaint you in the meantime that things passed in the Closet this day as ill as possible. An absolute negative put upon the proposal of Lord Chesterfield's going to Holland and a declaration that he should have nothing, a peremptory command not to trouble him with any more of *such nonsense*; that he had been forced to part with those

¹ May 5th, 1745 to J. Y., to D. of N., D. of N. to H.

² See below, p. 393.

he liked but would not on any account be prevailed on to take into his service those who were so disagreeable to him; with other strong expressions to the same effect. My Lord Harrington and Mr Pelham will be with your Lordship this evening before the rest of the Company. Your Lordship is desired to consider in what manner it will be proper to talk to those gentlemen¹. My Lord Duke, Lord Harrington and Mr Pelham think they should in general be acquainted with the difficulties that occur, with offers to give any proofs of the sincerity of the intention towards them....

ANDREW STONE.

Lord Chancellor to the Duke of Newcastle

[N. 18, f. 491.]

POWIS HOUSE, Decr 26th, 1744, at night.

MY DEAR LORD,

...Your Grace may perhaps be curious to know the little circumstances of the Levee. My Lord Granville stood first in the King's eye and was first spoke to. His Majesty did me that honour next, then the Duke of Bedford, and then my Lord Harrington; a single indifferent question only to each of the four. I think he did not speak to anybody else, though my Lord Privy Seal and my Lord Sandwich were there. He seem'd down and not in humour, and my Lord Harrington, who went into the Closet, told me that he is alarm'd with some new intelligence about the fixed intention of the French to attack Hanover, which he has found in an intercepted letter of Bernstorff's² from Paris. He talks of sending for M. Belleisle³ and his brother over prisoners hither. Surely it is very material to keep them as long as you can, and if by any private channel a merit could be made of it to Noailles and his party, might it not possibly have its use? I went from St James's to Leicester House, where the reception and discourse to me was much as formerly, though not quite with the same gracious countenance in His Royal Highness....

¹ Lord Chesterfield, Pitt and the Independent Whigs and also the Tories, who were now to be included in the administration.

² Johan Hartwig Ernst, Baron Bernstorff (1712-72), Danish Minister of State.

³ Charles Louis Auguste Fouquet (1684-1761), grandson of the Surintendant Fouquet, had distinguished himself greatly in military service and was made Marshal 1740. He captured Prague in 1741 and conducted the masterly retreat next year. He filled later various important diplomatic and ministerial offices and became war minister in 1758. He and his brother, Louis Charles Armand Fouquet, Chevalier and Comte de Belleisle (1693-1747), were taken prisoners in Hanoverian territory, February 20, 1744. As rivals of Noailles and his party, and as supporters of the war policy, their detention in England might not be unwelcome to the former. They were liberated in August 1745.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 114.]

NEWCASTLE HOUSE, Jan. 5th, 1745.

MY DEAR LORD,

I am so far from objecting to the time, that I think you have chosen the best day you could take. I am sure I can have nothing to suggest to you as to the *topics*. A *full conversation* is all I desire and then, I know, it must be an useful one to the public and an affectionate one to your friends. The topic of *Force*¹ is most to be combatted and I think has never been fully stated. The clogging and hampering the best intentions by this behaviour will not fail to be observed, and the injustice of separating or charging *any* more particularly in a general concerted measure will not escape you. I had yesterday two hours conversation with Mr Lyttleton², who spoke in his own and Mr Pitt's name, with which I was much satisfied: It was very full, both as to home and foreign affairs... I found to my great joy Mr Lyttleton fully apprised of the *weight, merit, dignity* and *success* of your Lordship's material conferences in the Closet upon the great event. I wish only the same success this day, and am more than I can express

Yours

HOLLES NEWCASTLE.

Would you touch the thought of B[olingbroke] or Noailles³?...

[H. 240, ff. 1, 7, see also f. 3.] [On January 10, 1745, Lord Bolingbroke writes to the Chancellor concerning signs of a desire for peace in France, and on January 14 he continues]...I beg your Lordship to lay even more weight than you did on what I said to you concerning the intrigues that are carried on among both parties; they have effect and more than I apprehended, especially amongst your new allies. That great distributor of employments is working the most unworthy part possible, in my sense, with regard to public good and private honour; and he who is not capable of doing any good out of the sphere of faction does much hurt in it*.

I fear a schism even this session which it is in your power to prevent easily and cheaply enough, if it be prevented in time, and give me

¹ *i.e.* the King's complaint that he had been "forced" in making the late changes in the administration. See p. 382.

² p. 253 n.

³ *i.e.* as to proposals for peace, see p. 377.

* I recollect that my Father shewed me this letter and I believe the person obscurely pointed out in it was Lord Cobham, the General. H. [Sir Richard Temple, Viscount Cobham (d. 1749), a distinguished soldier and field marshal; dismissed from his regiment by Walpole and hitherto in opposition; now joined in support of the administration. The second Lord H. adds elsewhere, "I believe on good grounds that Cobham's spleen and positiveness created more disturbance than anything else. Gower and Chesterfield both acted moderate parts." (Journal in *Parl. Hist.* xiii. 988.)]

leave to say that the affair of Justices of Peace¹, made palatable by proper representations to the old corps, is an expedient that would be very effectual. Gain time for God's sake. A schism will happen but if it is kept off for some time, I shall like it rather than fear it. As you have to do with some ill men and some weak ones, you have to do with others that have sense and virtue and courage. They will serve you to the utmost. Serve yourselves, and them and your Country. My freedom will deserve the more excuse, because among the most moderate you will find no man who has so small pretensions as myself. Forgive this scrawl, writ in haste, but which I could not with peace of mind neglect to write. I am ever faithfully devoted to you and your cause.

[On January 30, 1745 [f. 11] Lord Bolingbroke proposes the mission of Silhouette² to begin negotiations, but to this the Chancellor on February 9 [f. 17], after having advised with the other Ministers, refuses his sanction³.]

[Endorsed by Lord Hardwicke]...From Joe the day after the battle of Fontenoy.

[H. 6, f. 104.]

CAMP AT ATH, May 12th, 1745 N.S. Wednesday.

MY LORD,

My handwriting is sufficient to assure you of my being alive without saying it; but I ought to add that the Providence of the Almighty led me thro' the utmost perils in following my Royal Master, without the least hurt, for which, His infinite mercy and goodness, my heart is too full to give my thanks utterance. Praised be His name for ever.

I have not time to write your Lordship the particulars of our bloody attempt, because the messenger is just setting out. I wish it had succeeded better: our Captain deserves better fortune. He is a true hero. The right wing did more than could be expected from men; three times they put the enemy to flight, and were as often forced to retreat again by reason of strong intrenched batteries of cannon which played upon us, without discontinuing an instant, for above 7 hours from both flanks. At last, after losing a great number of men and officers, the left not advancing with the same ardour that the right did, it was thought proper to retire, which was accordingly done. Sir John Ligonier, who commanded the Rear,

¹ Apparently the appointment of Tories to this office.

² Etienne de Silhouette (1709-67) had been secretary to Noailles, the Duke of Orleans and Argenson the elder. In 1746 he was commissary to fix the boundaries of French and English territory in Acadia. In 1759 he was made Comptroller of finances, but only kept his office 8 months, on account of the unpopularity of the reforms which he introduced. Hence the application of his name to ephemeral and fugitive objects.

³ For further correspondence on this topic, H. 240, ff. 9, 18, 20, 23, 35, and Sichel's *Life of Bolingbroke*, vol. ii.

brought 'em off in such good order that the enemy did not think fit to follow us. We have lost a great number of gallant officers; our brigade has suffered a great deal. Mr Vanbrugh¹ has two wounds; I have just seen him and he will, I believe, do very well: he writes home to-night. Lt. Gen. Campbell² has lost a leg, Major General Ponsonby³ killed.

I never saw or heard of such behaviour as the Duke's: he rode everywhere, he encouraged the wavering, he complimented the bold, he threatened the cowards. In the midst of the greatest dangers, in the heat of the action, whilst death stared him on every side in the face, he delivered his orders with a readiness and coolness worthy of himself: had the nation seen him they would have adored him.

Two of our comrades, Lord Ancram⁴ and Lord Cathcart⁵ are wounded, but will do, I believe, very well. Had I even time I should not care to write particulars now: all I can say is I hope things will go better another time, but Tournay will certainly be taken. With my humble duty to Mama and love to brothers and sisters with compliments, etc.

I have the honour [etc.]

JOSEPH YORKE.

Pray be so good as to send word to Captain Parslow's that I'm alive and well: I wish the friends we have lost were so! Poor Harry Berkeley's⁶ killed and Col. Carpenter *cum multis aliis*.

Grey⁷ carried me the whole day without a false step or a start, and brought me off safe at last.

Capt. Knatchbull I have not been able to see: he is wounded but I hear will do very well. I will see him as soon as ever I can.

¹ See p. 398.

² See below, p. 395 *n.*

³ Major-General the Hon. Henry Ponsonby, third son of the first Viscount Dungannon, obtained his promotion after Dettingen. He led the 1st battalion of the 1st footguards in the famous charge, and while handing over his watch and chain to his son, a lieutenant in his regiment, was killed by a cannon ball, *Dict. Nat. Biog.*

⁴ Son of the third Marquis of Lothian, captain in the first regiment of footguards and aide-de-camp to the Duke of Cumberland, severely wounded in the head; later commanded the cavalry on left wing of army at Culloden and accompanied the Duke in subsequent campaigns. M.P. for Richmond: succeeded as fourth Marquis 1767, K.T. 1768.

⁵ Charles, ninth Baron Cathcart (1721-76), 3rd regiment of footguards: commanded the 20th regiment of foot in 1742; at Fontenoy aide-de-camp to the Duke and dangerously wounded in the head; sent in 1748 as one of the "hostages," under the Treaty of Aix-la-Chapelle, to Paris: Lieut.-General, 1760 and Lord of the Bedchamber to the Duke of Cumberland: K.T. 1763, Lord High Commissioner in the General Assembly in Scotland 1773-76.

⁶ Lieutenant in first regiment of guards.

⁷ His horse. See below, p. 395.

Lord Chancellor to Capt. the Hon. Joseph Yorke

[H. 6, f. 100.]

POWIS HOUSE, May 5th, 1745.

DEAR JOE,

I must begin my letter, as you very rightly do yours, with returning my unfeigned thanks to that Divine Providence, which has so marvellously preserved you in the midst of so many dangers. You must never forget it, and, as you say, praised be His name for ever, let it be praised in your future life and conduct. Your Mother, and all of us, have been in the utmost anxieties for you. Would to God our private joy was not now damped by the public calamity. I thank you for your account, which is, I think, as full as any I have seen, except the addition of some names of *killed* and *wounded*. I hope all of that kind is not true that is said. We wait with impatience for the particulars, and yet dread to receive them. The loss of some you name gives me particular concern : but I hope the wounded will recover. The behaviour of your Master is universally extoll'd. It is the universal voice of all the letters, as well foreign as national. Surely nothing can equal it. It is happy that you have such an example of a young Prince before your eyes, whom I doubt not you will endeavour to serve and imitate in the best manner. Don't fail to take the very first opportunity of laying me at His R. Highness's feet and acquaint him how much joy I feel (in the midst of the public misfortune) in his safety and fame! I pray God give him, and I trust he will have, better success another day.

It is our business to look forward and endeavour to retrieve the loss. All our attention is taken up here in considerations how your Army may be reinforced and augmented. It is our misfortune that the King is upon the sea, having embarked on Friday noon, whereas the messenger arrived on Saturday morning. All that can be done by men in our situation will be done. The Duke and Marshal Königsegg¹ must press the Dutch, and in the meantime you must take care of yourselves. When the detail is known, a better judgment may be formed. Pray write as soon as you can, and let me know as many particulars of what preceded and pass'd during the action, as you shall be able to collect : and I should be glad if your time would permit you to send me journals

¹ Joseph George Lothaire, Count Königsegg, commander of the Austrian contingent : of distinguished service in the Turkish wars, but now a gouty old man of 73—*Fentonay*, by F. H. Skrine, 126.

as you did last year. Your postscript about Grey makes me rejoice much that I compelled you to take him back with you.

I can write no more at present, but the kindest love, prayers and good wishes of all here. Make proper compliments from me to all my friends according to their respective circumstances. I am in pain for poor Vanbrugh¹, for they say the wound in his thigh is bad. I grieve over Sir James Campbell², who is a great loss.

Don't be dispirited. Our cause is good, and if not at the first, at last Providence will favour it. God bless you and preserve you.

I am ever, Dear Joe,

Your most affectionate Father,

HARDWICKE.

Let me know, as correctly as you can, the number of troops of each nation, which were in our army at the time you attacked the enemy, and likewise the number of the enemy's armies³.

Lady Hardwicke to Capt. the Hon. Joseph Yorke

[H. 6, f. 226.]

[n. d.]

MY DEAREST DEAR CHILD,

God almighty bless you and make us truly thankful for your wonderful preservation in the hour of danger. May His good Providence still attend you and bring you once more to your affectionate friends with better fortune, if it pleases God, in whose hands we are, the victors and the vanquished. Your account of the Duke's behaviour in the day of battle quite charms us, but success is not in our power; we are humbled, but I hope not without some mercies in store for us. Your friends and companions killed and wounded I am quite grieved for, every hour adding to their number and my thanks for your wonderful escape. I could

¹ See below, p. 398.

² Gen. Hon. Sir James Campbell (c. 1667–1745), third son of the second Earl of Loudoun, distinguished himself greatly at Malplaquet by exceeding his orders and charging the enemy, and again at Dettingen, when he was invested K.B. on the field of battle. M.P. for Ayrshire, groom of the bedchamber and governor of Edinburgh Castle. At the battle of Fontenoy he led repeated charges against the enemy, but his leg being carried off by a cannon ball he died while being placed in a litter, *Dict. Nat. Biog.*

³ The numbers given by Joseph Yorke to his brother Philip on May 29 N.S. are 32,000 or 33,000 effective men of the allies against about 60,000 of the enemy (H. 15, f. 82) and by Fortescue (*Hist. of the Brit. Army*, ii. 111) as less than 50,000 against 56,000 of the enemy.

talk for ever on the subject, but I will say no more. My Lord writes himself to you. I can't help adding, let us hear when you can, though I know 'tis needless, because I am sure you know my fond anxiety for all my children. The affectionate, ardent prayers of the whole fraternity attend you, as well as those of her who is

Most unfeignedly ever yours.

Sir Windham Knatchbull begs you will send some further account of his brother, and Mrs Wilkes also entreats for news of her nephew if you can tell any. Lady Vanbrugh is much obliged to you and hopes to hear again very soon. If any compassionate case amongst the wounded men should engage your concern in seeing them in distress for want of some little helps, I allow you to give twenty guineas for me amongst them as from yourself. But say nothing of it where you are, nor when you write home. A mite was once accepted. Once more God bless you.

Lord Chancellor to the Duke of Newcastle

[N. 19, f. 208; H. 60, f. 144.]

POWIS HOUSE,

May 5th, 1745, at noon.

MY DEAR LORD,

Upon an event so important as well as so melancholy, as that which has lately happen'd, after the first shock is over, the immediate resolution of every prudent mind must be to look forward and try to retrieve either misfortunes or mistakes. If we don't do that *now* with discretion, and with the utmost vigour and application, and perhaps with the appearance of even more than we can effectually exert, we shall be thought inexcusable....The first thing ...is to persuade the Dutch to hold out Tournay as long as possible, even tho' it should hazard the garrison. During this time, and whilst the communication is open, every means should be tried and no stone left unturn'd to reinforce the army.

[Ought not reinforcements to be obtained from Ireland to replace regiments in England to be sent abroad? The Dutch must be immediately obliged to furnish their stipulated quota which, it is said, they had not yet done, and the Hessian and other troops obtained. The Duke knew very well that he had said 500 times this winter that they would have no sufficient army in Flanders, and was always answered that the war would be felt most on the side of Germany. The event had now proved otherwise. He does not believe that the enemy's losses in the battle can have been so

overwhelming as was reported.] For God's sake, my dear Lord, consider whether there ought not to be some appearance, at least, of the Ministers meeting to deliberate upon these things in such a crisis.... I pray God to direct us and send us better success....

Most affectionately [etc]. Yours,

HARDWICKE*.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 142.]

CLAREMONT, May 5th, 1745.

MY DEAR LORD,

Could anything add to the many obligations I have to you or to the opinion I have long had of your Lordship's superior judgment in all cases and upon all occasions, even of the greatest difficulty, it would be your letter which I have just received.

I read it with too much pleasure to confine it to myself and ventured to shew it to my Lord Godolphin who equally admired it with me. I have summoned a meeting of the Lords tomorrow at 12 o'clock at my office and your letter shall be my *brief*.

Ever and unalterably yours,

HOLLES NEWCASTLE¹.

H.R.H. Princess Amelia² to the Lord Chancellor

[H. 1, f. 37.]

May 6th, 1745.

...I must wish you joy from the bottom of my heart that

* This is a wise letter and sound advice, but it was a pity that during the winter some better care was not taken of that backdoor Scotland. Surely the Dunkirk invasion the year before, and what came out from Cecyl's papers³, and the packet intercepted by Matthews in 1743⁴ should have put the Ministry more on their guard against the Pretender.... II. [Three Regiments and a draft of 540 from the Guards were sent in a few days. P. Y. to Horace Walpole, printed by Stanhope III. p. lxiv.]

¹ On June 5, 1745 [H. 6, f. 112], the Chancellor writes to Capt. Joseph Yorke, "I am glad our dispatch in England in sending over the recruits and new regiments is approved. It gives me a particular satisfaction because, though I don't pretend to meddle in military matters, yet the uncommon expedition of it is in some degree owing to me." The campaign in Flanders, however, was practically abandoned soon after, owing to the necessity of employing all available troops in dealing with the Scotch rebellion.

² Second daughter of George II.

³ Col. Cecil, the Jacobite agent, said to have disclosed the secrets of his faction to the government; a list of the papers, *Hist. MSS. Comm. Rep. x. (i.) 225*; and R. F. Bell, *Mem. of John Murray of Broughton*, 456 sqq.

⁴ Admiral Thomas Mathews (1676-1751), probably when British plenipotentiary to the Italian States and Sardinia.

Mr Yorck hath escaped. You flatter me greatly about my brother's behaviour but you will allow me to say that I am very miserable from knowing what he feels in having lost so many brave men. I hope in God times will soon alter and that we may see better days.

AMALIE.

Lady Vanbrugh to Capt. the Hon. Joseph Yorke

[H. 83, f. 22.]

WHITEHALL, May the 6th, 1745.

SIR,

How much I am obliged for your goodness to me in letting me hear there is no danger apprehended from my son's wound. Had not your letter come, I should for some time have believed him dead, for it was reported there were but seven officers left alive of the Guards. I thank God his life is spared, and beg, if writing is not proper for him, you will add to the obligations I already have and continue to let me hear how he does.

I believe I need not say much to make you believe that I am most sincerely rejoiced you have had no hurt, and hope the same good fortune will always attend you. Lady Hardwicke did me the honour to come here yesterday to show me your letter to my Lord Chancellor¹. Her good nature on this occasion I shall never forget. The account you give in that letter of this unhappy affair is, I dare say, much the clearest and best of any they have had yet. I will not keep you any longer than to assure you I am, Sir, your most obliged and faithful humble servant,

HENRIETTA VANBRUGH.

In the letter you wrote to Lord Chancellor you mention two wounds my son had. I hope you will not conceal the worst from me. I depend upon your sincerity....

Hon. Philip Yorke to Capt. the Hon. Joseph Yorke

[H. 15, f. 78.]

ST JAMES SQUARE, May the 7th, O.S. 1745.

DEAR BROTHER,...

It is more easy to feel than to describe the alarm into which this town was thrown upon the arrival of the Duke's messenger on Saturday morning last—the concern that was everywhere expressed for the dead, the anxiety about those whose fate was uncertain, and the satisfaction which all people seemed to take in reflecting that, tho' the day was lost, we had incurred no national disgrace from the bad behaviour of any of our troops....

¹ See p. 392.

[H. 15, f. 80.]

May 14th.

...It would give you a pleasure to hear how much the gallant behaviour of the British troops and their General is extolled in all places and in the accounts of all nations. The French say they fought *en furieux, en désespérés*, and with regard to our own people I really think they like ill success, by which the national honour is kept up, better than inactivity; yet the loss of so many brave men is lamented as it ought to be....We hope those which are sent from hence, together with the augmentation from the Dutch garrisons, will put you in a condition to look the enemy in the face....

Hon. Charles Yorke to Capt. the Hon. Joseph Yorke

[H. 37, f. 35.]

May 7th, 1745.

DEAREST JOE,

It cannot be imagined by you what a pleasure I felt in the midst of a public misfortune (for such it must be called), when the news of your safety came to your friends under your own hand. ...One ought to know what it is to have a friend in danger, not to satisfy him of the love we bear him, but to satisfy oneself. May the same Providence which has hitherto covered your head in the day of battle continue to preserve you!...Lord Chesterfield writes word from Holland that, notwithstanding the consternation of the Dutch on the first advices, they have recovered their spirits and are determined not *cedere malis* but to hasten the remainder of their quota into the field. They are touched, as they ought to be, with the hazards which we ran in freely exposing a fine army to defend a town of their Barrier, extol the gallantry of the British troops and are in the last indignation at several of their own corps. Some officers are ordered for a criminal prosecution. The King was at Harwich when the letters came to the Duke of Newcastle, where he still waits a change of the wind....It was the general expectation that he would return to London on this event, but he seems resolved to prosecute his journey [to Hanover]....Papa and Mama and Mr Yorke all write by this express, and you will hear from more of your friends who are desirous to show how much they love you by these little testimonies. I would make my letter more entertaining if I could, but to say the truth I can think of nothing beside the action. The Duke's behaviour, according to every account, was heroic: and the messenger reported that after the army was drawn off in a regular retreat, His R. Highness turned his eyes on the field of battle and burst into tears: having acted the part of a general he acted that of a man. Nothing can be stronger than his expressions of tenderness and humanity in the private letter he wrote to the Princesses....My dearest Joe, God preserve you ever and

inspire the councils of your commanders with wisdom and crown them with success.

In haste, Yours,

CHARLES YORKE.

Hon. Charles Yorke to Capt. the Hon. Joseph Yorke

[H. 37, f. 37.]

May 14th O.S. 1745.

DEAR JOE,

...I cannot refrain from writing a second time...both to condole with you on the loss of poor Vanbrugh and to congratulate you on the honour the British troops and their general have gained notwithstanding the failure. All nations and languages agree in it, and letters from every part of Europe are filled with the same encomiums. Captain Parslow showed me a letter the other day from Captain Parker in which your name was mentioned with great regard and your behaviour (which wanted no testimonies with me) commended in the dangers of the action. Would that your excellent friend had been safe in the like manner! I could not help shedding tears when I read your expressions relating to him, and calling to my mind a very serious and sublime reflection I have read somewhere on cases of this kind, that when Providence takes young men out of the world, it is probably with a gracious design to preserve them from miseries which He foresees impending over them in the course of nature....

The infatuation of General Ingoldsby¹ astonishes everybody. The man seems to have wanted that common courage which the King buys for sixpence a day....

Capt. the Hon. Joseph Yorke to John Jones

[Genealogist ii 239.]

MR JONES,

After the letter I had the honour to write to my Lady Vanbrugh with regard to the welfare of my dearest friend, to which I got him to write a postscript, I know not how to sit down to write so very different an account at present; not only from the shocking circumstances of being the person to send the most unwelcome news her ears have ever heard, but from the miserable

¹ Brigadier-General Richard Ingoldsby (d. 1759). He was ordered with the 12th and 13th regiments of foot, the 42nd Highlanders and Zastrow's Hanoverian regiment to take the redoubt, Fort d'Eu, an essential point in the plan of battle. He failed and the French delivered a disastrous cannonade from the battery on the British Infantry during their advance, and this was said to have greatly contributed to the issue of the battle. He was tried afterwards by court martial, in which Joseph Yorke gave evidence, when he was sentenced to suspension for having disobeyed the Duke of Cumberland's orders. He was allowed subsequently to sell his Company. Below, p. 407; *Dict. of Nat. Biog.*; F. H. Skrine, *Fontenoy*, 159-162, 164-168, 232-235.

unhappy state I am myself in, whilst I write this. It would be ridiculous in me to screen his death from you. How to break it to his poor mother God above only knows; and yet, yet it must be done. Alas, those who knew him best must feel it most. I cannot comfort any one, tho' I wish it; to say I have lost the only one in all my acquaintance with whom I had made so strict a friendship, is what makes my blood freeze with horror. My support, my comfort, my adviser, my everything is gone. The thought makes me distracted. This only pleases me in the reflection that after having suffered with unparallel'd heroism and sweetness of temper, 20 hours of the most racking torture, the Almighty of His goodness took him to Himself. I must tell you the particulars of his death. For some time we had hopes, but we found yesterday the ball so fixed to the main bone of the thigh that it was in vain to attempt the taking it out: however, with the assistance of Mr Middleton and Mr Adair (the best surgeon in the army and whose care of him was very particular) we made an incision upon the part yesterday, but without success. I saw him a few hours before he died and kissed him, I was sure for the last time, and so it happened; for at 12 o'clock last night he was freed from misery and left his friends in despair. The last words he spoke was his concern for his mother and his regret in leaving me: nothing else affected him in dying. Judge then what I suffer! But poor Lady Vanbrugh, let the news be told her in the softest manner that it can and when she can bear it:—tell her his dearest friend performed the last sad friendly office he could do him, to see him decently buried, which I saw performed at Ath this day at 12 o'clock.

Would it had been possible to have shewn any other mark of the excess of esteem and love I had for him. I can write no more on a subject which flutters me to such a degree that it is all I can do to support it. His enemies felt the effects of his courage in the day of battle: with 40 men he routed a whole French Battalion; but alas! his friends feel the loss too deeply now. Poor Joseph I have now with me, who will soon go for England: his fidelity to his Master is not to be exceeded. His horses and camp equipage I will order to be sold and the other things shall remain till you tell me what is to do. Pray let me know how my poor Lady does: what, what will she do? If anything can add to the misery, to have lost so good, so dear a friend, 'tis to be the Raven that must croak this in all your ears. I am but a Job's comforter, but I must be forgiven, the loss touches me so near. Adieu! Comfort yourselves! He died in his calling, in the eye of his Prince and like a Hero for his Country. I can no more.

Your afflicted, miserable Friend and Servant,

JOSEPH YORKE.

John Jones to Capt. the Hon. Joseph Yorke

[H. 83, f. 24.]

LONDON, May 14th [1745].

SIR,

The melancholy news had reacht my good lady before I received the honour of yours, butt God knows who can pretend to describe the efects of it. We, her poor servants, was obliged to gett a surgeon immediately to lett her blood.

Dear Mr Vanbrugh was particularly mentioned in the Duke's letter to the Princesis, from whence my Lady was inform'd on Friday last. On the Saturday, my Lady knowing there was letters come in, inquir'd particularly if I had received no account from anybody, which oblig'd me to acknowledg that you had been so good as to write to me but preveiled with her Ladyship nott to see the letter, butt acquainted her with some parts of it only. Her Ladyship is much affected with your freindship and aflections for Mr Vanbrugh and in the midst of sorrow has expressed her concern for your safety and welfare and says you are the only person now in the world she could like to see. That dear gentleman Mr Vanbrugh, has some freinds here that express the highest greefe and concern for the loss of him, but nobody can be trewly more sorry than myself and wife, nor is it to be at all wonder'd at, considering the care and tenderness we have had of him and for him ever since he was born, and to be cutt off suddenly when there [was] so much reason to hope for everything that was great and good, is such a subject for greefe that non butt his particular friends can judg of. There has hardly been a word spoken in this House ever since your first account butt has been accompanied with tears. Then think how it must be at this time when my ever Honourd Lady is so weakened with greefe, wishing perpetualy, she had nott lived to hear of this fatall Batell. I think her Ladyship is rather worse, if possible, than she was the first day: I dread the event. It gave some little satisfaction when my dear Lady hear'd that Joseph had shown his fidelity to the last; for his Master was always pleased with him. I hope he will make all possible hast to come home, tho' it will be a dismal sight to see him and think we shall never see his master who was so dear to us all.

Dear Sir, as you desired some instructions, please to dispose of that dear gentleman's military things in what manner you think best: all the wereing aparill Joseph is to do what he pleases with, they are his. I sent a draft for thirty pounds on the paymaster: it was to be paid at the same time the subsistance was. Pray be so good as to inquire into it.

I pray God bless you, and send that I may have the pleasure to see you crowned with honour and safety equall to your desert. As I never learnt to read or write, I hope you'll judge the best for me

and pardon all my blunders. I have nothing to plead butt my sincerity with which I humbly begg leave to say that I am,

Sir, your affectionate humble servant to command,

JOHN JONES.

If there is anything amongst the military things that will be agreeable to you my Lady desires you will please to accept of them.

[Charles Vanbrugh, only surviving son of Sir John Vanbrugh, the famous architect and dramatist and of Henrietta Maria, daughter of Colonel James Yarburgh, was 26 years old at his death. Lady Vanbrugh died in 1775, aged 82.]

Capt. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 106.]

CAMP AT LESSINES, May $\frac{15}{26}$ th, 1745.

MY LORD,

It is sufficient for me to receive your Lordship's commands, to endeavour to execute 'em to the best of my power and abilities, tho', to say the truth, I had determined to write no particulars of the steps preceding the action or of what were taken during the heat of it: however, as you seem to expect it from me, I will do my endeavour to recollect to the best of my judgment the particulars of our transactions as far as they came to my knowledge, at the same time relying on your long experienced indulgence to excuse the inaccuracies of an account wholly collected from my memory, and that not a little hurt by the cruel stroke I received in the death of my dearest friend.

It will be needless for me to premise to your Lordship the reasons which induced our generals to hurry the troops into the field somewhat sooner than was expected, or I believe was originally intended. The great readiness the enemy was in to fall upon our frontier made it more than necessary the allies should put themselves in action. After several feints towards Mons and other places the French seriously invested Tournay and opened trenches (as report says) on the last of April N.S. The consequence of this town made it absolutely expedient to put some engines in the fire to endeavour, if possible, to prevent so fatal a stroke, for which effect the army, after being reinforced from Mons, Ath, Oudenarde, Namur, Charleroi and other towns, marched from Cambrai the 7th May N.S. and encamped at Molbag [Moulbaix]. The rain, as your Lordship has heard, unavoidably detained us one day, but on the 9th we marched and encamped at Bréfeuil [Brusfoel]. That day's march we were alarined from Genl. Moltke¹, who commanded our corps de reserve (which then formed the vanguard and had drove the French from their post at Leuse [Leuze]), that his Hussars and

¹ See below, p 408.

Highlanders had been skirmishing several hours with the enemies' light troops and reported that the enemy advanced in order of battle. This, tho' it proved a false alarm (would to God it had not), caused the troops to form and prepare for action, which, to do 'em justice, they did with great alacrity : and notwithstanding they were forced to work very hard to mend the ways for the artillery to get up, the army got to their ground in good time.

That evening, the Duke, accompanied by the Marshal [Königs-egg] and Prince Waldeck, reconnoitred the situation of the country towards Vezon and that plain where afterwards we came to action, and did not return to their quarters until they had posted proper detachments to secure the left flank of the army, which was somewhat liable to be insulted by the enemy. The next morning the three chiefs met at the D[uke's] quarters and a detachment of 12 squadrons and 6 battalions were ordered to march at 12 o'clock under the command of Lt. General Campbell¹ and Lord Albemarle. The Duke, Marshal and Pr. Waldeck accompanied this detachment and an equal one from the left wing themselves. About one o'clock we began to skirmish with the enemy's parties posted in the wood that skirted the plain and in the villages of Mowbray [Maubrai] and Vezon, and took possession after having repulsed their detachments, who, before they quitted the former, set fire to it, to prevent our making any use of it by way of lodging our men. After we were in possession of these places and had secured our entrance into the plain, the Generals took a survey of the plain and then returned home, tho' not without the enemy's having first complimented them with a few cannon shot, one of which narrowly missed the Duke, and was a small specimen of what we were to expect the next day. The detachment mentioned just now lay on their arms all that night to prevent the enemy from dislodging us again, and by that means prevent the design we had formed of attacking 'em (which we afterwards found to our loss they did not wish to do).

At two o'clock on the morning of the 11th His Royal Highness (whose youthful heroism is unparalleled) got on horseback and joined the troops at the head of the Camp, and about 3 began to move. Towards 4 o'clock we began to move out on to the plain and were immediately welcomed by the enemy's artillery : no time was lost in forming the troops as fast as the défilés would allow of it, but the cavalry were obliged to form behind the infantry of the right : the left had more extent of ground to form on, (I wish they had made a better use of it). I reckon it might be about a mile from the entrance into the plain from the *hauteur* just behind the brow of [*i.e.* on] which the enemy had formed their troops, with their right extending to the village of St Anthoin and their left to the Chemin de Leuze, having the village of Fontenoy opposite the centre of our army. The village was fortified and well provided with artillery, which raked us from left to right in a cruel manner, whilst the

¹ See above, p. 395 n.

redoubts they had created before their left, cover'd by a wood, took us from right to left, not to mention the running batteries they had in their front. This advantageous situation of the enemy made it very necessary for H.R.H. to erect his batteries as speedily and as advantageously as the ground would allow, in order to dislodge if possible the enemy from these posts, which would render it otherwise very difficult for the lines to advance. He accordingly planted a battery of 6 pounders on the right, which dislodged the enemy from a post they had in the corner of the wood on their left, and gave us an opportunity of advancing our batteries so far as to play on the village of Fontenoy, which we did with tolerable success for some time, at the same time plying 'em with some shells thrown out from our howitzers*. Whilst the Duke and Marshal were attaching themselves to gain the redoubt which defended the wood on the front of our right, and which would have enabled us to have extended our front and formed our cavalry in a proper manner on our flank in the plain (which now being cramp'd in ground was obliged to be in the rear), word was brought that the left had already entered the opposite side of the village of Fontenoy, and if we did but attack it on the right at the same time we should soon be masters of it. This piece of advice was followed. I then thought, and do still, that it was the fatal turn which gave us the worst of the day. Orders were immediately given by the Duke in person to the Highland regiment to attack the village sword in hand and the two lines were ordered to follow 'em immediately. (Give me leave to digress one moment and express the transports of my heart when I saw that body of men of the right wing, most part of 'em my countrymen, move up, at the command of their heroic Prince in person, and in the finest order imaginable, and with a spirit worthy of the nation and its Prince, against an enemy whose perfidy and ambition has cost the lives of so many thousands, when every private man seemed worthy to command in chief the army of which he was but an individual. I wept with joy at the time, and my heart leapt within me. The pleasure I felt and the noble sound of drums and trumpets made me for a while beyond myself, but I have felt enough of the reverse since.) This they did with as great order as if it had been at a review, notwithstanding the most severe cannonading that ever troops were exposed to and the plain quite cut in several places by deep hollow ways. In vain did our Highlanders twice enter the French intrenchments : 'twas but to get out again with loss and instead of being supported by the Dutch Infantry, ordered for that purpose, the ancient honour of their Republic having forsook them, they basely turned their backs upon the foe and left some of their officers to fight alone. What indignation did it raise in every honest breast to see so scandalous a consternation.

In spite of all these rubs, our lines of infantry advanced undaunted and unbroken, and tho' flanked by these tremendous

* N.B. Howitzer is a small mortar.

batteries, they charged the French with a spirit which will one day make the enemy lament in blood the advantages they then got. At the first fire our men gave, the French footguards, as usual, took to their heels and fled : the cavalry that advanced to succour them met with so warm a reception that they were entirely broken : and indeed, at that instant, fortune seemed to declare in our favour, but the terrible batteries still continued to gall us so cruelly and the enemy supplying still fresh troops to those we overturn'd, the Duke and Marshal finding how things went upon the left and dreading the consequences of being surrounded on our left (*i.e.* of *our wing*), thought it best to seize the moments that we could whilst yet in order, and accordingly, after rallying some part of the infantry twice, which had the misfortune to be broke and leading 'em on to the charge with fresh vigour, the Duke gave orders to the footguards and the rest of the infantry of the 1st line, which were at that time actually in the enemy's camp, to cover the retreat of the rest, which they did in such extreme good order, under the command of Sir John Ligonier, that the enemy did not dare to stir from the front of their camp and their batteries, fearing lest it was only a feint to renew the charge. It would be needless and endless to describe the particular bravery of officers or corps : with such a Prince at their head who could do less; with such difficulties to encounter what mortals could do more. The different changes and vicissitudes of fortune during the action, and the part H. R. H. bore in each of 'em, are not so easy to describe with a genius no better than mine : besides, as I design this account more by way of speculating upon, than to be minute in the little particulars of, the action (which you must have had long before this), I will end it with saying we retired into our camp at Brefeuil [Bruffoel] and in the close of the evening march'd to Ath.

What I am going to say now, your Lordship will easily see is not a topic of conversation I should be disposed to start with everybody, particularly in the station I have the honour to be, and indeed the fear of falling into such speculation in writing to my correspondents, made me determine at once not to enter into a detail of the action in any of my letters ; but your commands are, and always shall be, my law.

From our very first entrance into the field I never could, or did, imagine that the design of our leaders was to lead us up to the beards of our enemy, without first trying to draw 'em off from the siege of Tournay by some diversion towards their own country, especially when we should, or might, have known they were amazingly superior to us in numbers. I have heard, indeed, that we did design to have invested Maubeuge, and by that means have obstructed the French projects on our frontier ; but the Dutch were so dilatory in settling the proportions, and the preparations for that siege would have taken so much time, that it was on that account alone laid aside. However, tho' that scheme was subverted, that should not have made us desperate : we should have managed warily at

least our little strength: some measures might have been fallen upon to have either crossed the Scheld above 'em or below 'em and not to have attacked 'em in the very spot, unreconnoitred on our part, they themselves could have wished us to have done it in; and that too after having, thro' avoidable and unavoidable delays, given them time to render it so strong that twice our force and courage, without more than twice our skill, could not have drove them from it. I cannot conceive what malign star reigned over us at that time, but sure never were people with the means, as I suppose, in their hands, so ignorant of what their enemy's force or operations were. I have pretty good reason to think that Prince Waldeck flattered the Duke and Marshal so much with the notion that the French were far inferior to what we found 'em, and would not stand their ground, that with an Austrian flight of military conduct he hurried us to this bold attempt. Had we even attacked 'em the day before, we should have found less difficulty; for the night of the 10th completed those works from which we suffered so much the next morning. To do my master justice, he showed more military skill in my poor judgment that day than anyone I saw joined with him, and that not to derogate at all from their merit. To instance the chief particular of it: from his first entrance into the plain his whole bent was to dislodge the enemy from the great redoubt which was behind the corner of the wood on our right, to effect which he severally ordered the Brigadiers Ingoldsby¹, Skelton² and Major Genl. Zastrow³ to attack it; but either thro' want of heavier artillery to make a breach or want of fascines to fill up the ditches to enable 'em to storm it sword in hand, the different attempts were without success at the beginning of the day; and after the Dutch had turned our attention towards the centre and the village of Fontenoy, the object of the action on the right was quite changed as, I believe, you will readily conceive. Till that moment things had wore a good aspect; but the unsuccessful attempts on that fortified village and the poor behaviour of our left soon gave a damp to our elated spirits. Tears were not spared on the occasion: I felt more for our master at the instant of our retreat than I ever had felt in my life before, when with a deep fetch'd honest sigh and eyes brimful of tears, he lamented the loss of so many of his brave fellow-subjects, and wished rather to have shared their fate than seen their gallant endeavours attended with no better a success.

It was ill judged, after so good a retreat, to leave our camp at Brefeuil [Bruffoel] that night; because the enemy did not dare to follow us, and we should by that means, have saved the greatest part of our wounded and all our hospitals, which have since fallen into the enemy's hands, and are made prisoners of war, because we, they say, have infringed the cartel, by the detention of Belleisle⁴; add to this that it makes our story not tell so well as it would, had

¹ See above, p. 400 *n.*

² Of Branthwaite Hall, Cumberland, Colonel of the 32nd Foot 1742, died 1757.

³ Hanoverian General, commanded the Hanoverian Infantry.

⁴ See above, p. 390 *n.*

we continued firm in our old camp. Generally such things as these are said after an affair is over, which were never mentioned during the time it was in agitation, but that was not the case here. Most people thought we only meant to show ourselves and not attempt what we did, especially as we seemed so little acquainted with the enemy's dispositions. A general officer of the Austrians, Molcke by name, an officer of great merit, who is extremely good to me, told me himself he had offered to reconnoitre the enemy nearer*, but it was not thought proper. I can't find that the Lieut. Generals were at all consulted in the affair; in short, I think it providential it was not worse, considering all our slips. This will make us better soldiers, braver it cannot. I will conclude my rude remarks with saying that that day convinced me in open ground the French will never stand us.

I have the honour to send your Lordship herewith a scribbled account of the names and numbers of our battalions and squadrons, together with the number of the enemy, to which I have added an account of the killed and wounded French officers. I take it for granted that you have long ere this received H.R.H.'s detailed accounts of the action (which I have never been able to get a sight of) with the dolorous list of killed and wounded English officers. It was a cruel massacre of brave gentlemen, but 'tis a fate prepared for us all; may we all submit to it as well! I can't say our spirits are at all dejected; for, to say the truth, both officers and men seem desirous to meet again on more equal terms.

Your Lordship's letter arriving but the night before last, I have had a very little time to collect anything together. All I have wrote is confused and from memory, without any materials or foul draft, as you may easily see by the blots and interlining of this; but my ardent desire to obey your commands immediately determined me to throw my indigested account on paper and send it directly, rather than stay until facts were grown so obsolete as either to have quite escaped one's memory, or have been transmitted to you by a hundred hands. I must therefore beg your indulgence upon the occasion and that you would be persuaded the vicissitudes of fortune can in no way change that regard with which I have the honour to be

Your Lordship's most obliged, most
obedient, dutiful son and servant,

JOSEPH YORKE.

I am greatly sensible of the goodness of all my friends in their good wishes for my safety; as soon, and as fast, as leisure will permit, I will thank them myself. In the meantime, whoever of 'em fall under your Lordship's eye, I beg leave to trouble you with my compliments to 'em. My humble duty to Mama whose letter

* To which the D. and Mar: at first gave consent; but Pr. Waldeck, having taken it into his head that things would go smoother on the left because the enemy made little resistance on that side, where the ground was more open, over-persuaded him to apply too much of their strength that way.

is come safe, as also those of the rest of the fraternity, to all whom I beg to be remembered in the kindest manner.

Tournay is taken and the Citadel, I much doubt, does not intend to hold out very long; the particulars of their transactions you will be informed of by the Duke's accounts¹.

Lieutenant S. Robinson to Capt. the Hon. Joseph Yorke

[H. 83, f. 26.]

BRENTFORD, May 18th, 1745.

DEAR YORKE,

I have lately resisted a strong temptation in writing two or three lines to you in the bottom of a letter of Parslow's, but it was with design to do myself more justice, in telling you at large how much I rejoice and congratulate you on your preservation when the odds was so greatly against you. May the same good Providence always guard you and may you rise to honours and command, without ever risking such another fiery trial; for by as much as we can judge of the affair here, it would be almost presumption to think that any man could survive such another battle, at least for one in your situation. You may imagine what a consternation the whole town was in upon the first report. My first enquiry was about you and to be fully satisfied I went in the evening to Ormond House², where Lord and Lady Hardwicke did me the honour to see me and have for ever made me their most grateful servant in receiving me as your friend, and in consequence of it shewing me your letter which I rejoiced upon much as a testament [testimony] of your safety, as well as upon the letter itself which, considering your fatigue of body and agitation of mind, was both a manly and sensible letter, and I can assure you, according to Lord Cobham's opinion, the most intelligible military account sent over at that time. I can hardly express how much my heart ached when I came to the fatal list. Poor Harry Berkeley's name being the first affected me so much that I was unable to go on for some time with the letter. He was a man I loved and esteemed, and he is here the most universally lamented of any man I have known in my life-time. I can't avoid mentioning to you a private occurrence to convince you there is a possibility for a person to be a great man and yet retain humanity; for your good father, partly being strongly affected for the national loss and then seeing me in that distress about poor Harry Berkeley, tears dropt from his eyes also. I honour him for it greatly and since he has good nature to feel for the distresses of other people, I hope in God his tenderness may

¹ For other accounts see H. 83, ff. 29-32; several letters of Philip Yorke to the elder Horace Walpole describing the battle and subsequent events are printed in Stanhope's *Hist. of England* (1839), iii. ix, sqq.; and in Coxe's *Pelham*, i. 235; another description, sent by Marshal de Noailles to Lady Bolingbroke in H. 545, f. 141. For Capt. Joseph Yorke's account of the retreat of the allied army and subsequent movements, which we need not follow, H. 6, ff. 121, 127.

² I.e. Powis House, Great Ormond Street.

never undergo the trial of the loss of any of his family or friends, and whenever that shall happen I am sure I shall feel for him.

I congratulate you on the Duke's safety. He is honoured and esteemed here as much, if possible, as he can be by his army abroad. I find he has exposed his person as much as if he had twenty lives at command... I beg my compliments to Conway¹ and Lord Bury², and I rejoice they are both well, as also my compliments to Lords Ancram and Cathcart, and hope they are both recovered of their wounds. Remember me to my old acquaintance, General Zastrow, and let him know that a set of people here, called Patriots, damn him to all eternity because his name and that of Hanoverian are never now mentioned but with honour....

Addieu, dear Yorke, and believe me to be your faithful and affectionate friend,

S. ROBINSON.

...I desire in particular to be remembered to Grey³, and let him know I claim some merit in the honour he acquired that day since I solicited so hard for him to be a campaigner this year: if he could speak, probably he would tell me he heartily wishes me at the Devil for it, and would desire I'd come and see some of that sport myself.

Lady Hardwicke to Capt. the Hon. Joseph Yorke

[H. 6, f. 44.]

May 28 [1745].

MY DEAR JO...

The no defence of Tournai grieves us much. The French came before it on the knowledge of having it betrayed to them⁴, and where villany and cowardice will end [I] know not; since even in my

¹ The Hon. Henry Seymour Conway (1721-1795), son of the first Lord Conway and brother of the first Marquis of Hertford, M.P. for Higham Ferrers, served in the campaigns abroad as Captain in the first regiment of Footguards; present at Dettingen; Aide-de-Camp to Gen. Wade, and afterwards to the Duke of Cumberland, and present at Fontenoy; obtained command of the 48th regiment of Foot and was present at Culloden and in the subsequent campaign in Flanders, being taken prisoner at Lauffeld; accompanied the Duke of Devonshire, Lord-Lieutenant, to Ireland, as Secretary 1754; in 1757 he was made Groom of the Bedchamber and the same year chosen to command with Sir John Mordaunt the Rochfort expedition, and on account of its failure was disgraced; he was promoted Lieut.-Gen. 1759 and took part in the campaign under Prince Ferdinand of Brunswick in Germany; on his return he became a supporter of Wilkes and was dismissed from his civil and military appointments in 1764. He subsequently became leader of the House of Commons and took a prominent part in politics and military administration.

² George Keppel (1724-1772), son of the second Earl of Albemarle, another of the Duke's aides-de-camp; Captain in the Coldstream Guards. He was afterwards present at Culloden and made aide-de-camp to the King and Lord of the Bedchamber to the Duke of Cumberland, whom he attended in subsequent campaigns; became third Earl of Albemarle 1754; Major-General 1756. P. C. and Governor of Jersey 1761: in 1762 he commanded the troops at the taking of Havana; K.G. 1771. (*Dict. of Nat. Biog.*)

³ See p. 393 n.

⁴ Below, p. 412.

own house a most remarkable event has happened. Edward, who you know has lived in the family above twenty years, was last week ordered into custody for delivering out writs as sealed that never were sealed. The proof is thought very strong; he denies it but all the world thinks him guilty. After this, who can answer for another when sense, knowledge, good usage, gratitude nor profit joined together could keep even so low a servant as our porter honest. God mend our morals, for society can't subsist as things are managed. As to the Dutch...where they'll find a Hero to restore their corrupt commonwealth, I know not. God send us better times but my heart is very sad. Your letters, however, do me good, whether to myself or others, when they bring the good news of your health, which God preserve....I look upon every brave Englishman as a loss to Europe and therefore to be taken care of as such.... I wish you success in all your undertakings, whether public or private, being with the sincerest love and regard, Your most affectionate M. H.

I feel your loss of a friend as indeed I do everything that affects you so sensibly as that does, but I choose to say little of it, since that can't cure the evil....The blessing, love and kind compliments of all friends attend you. Once more, my dear child, God bless you, and then I seal up my letter.

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 72.]

POWIS HOUSE, June 22nd, 1745.

DEAR MR YORKE,

Your kind letter gave me much pleasure as well by the many cordial expressions of your affection to your brother Joe as of your regard and duty to me. As it is the greatest satisfaction of my private life to do good to you all, and to be both the means and witness of your prosperity, so I cannot but highly rejoice in his promotion. The Duke did it in the handsomest manner without my privity or solicitation. I saw afterwards a copy of H.R.H.'s letter to my Lord Harrington, recommending him to the King for this Company, which is expressly founded on *Mr Yorke's personal behaviour in the Battle of Fontenoy*, and His Majesty complied with it with great readiness and grace¹. I have since wrote to my Lord Harrington to lay me at His Majesty's feet on this occasion and also directly to the Duke himself. It is a great thing for Joe to have gain'd the rank of Lieutenant Colonel before he is one and twenty,

¹ See also H. 60, f. 162. Joseph Yorke writes to his father on June 27, "Nobody can be more sensible than I am of the goodness of the Duke in this affair, who without the least hint on my part or giving me any previous notice, did it in the handsomest manner that it was possible." H. 6, f. 116.

and I hope with you that his future behaviour will justify his quick rise. Advantages of that kind are apt to raise an envy, which is only to be avoided or kept under by modesty and merit.

I wish I could take as much pleasure in the situation of public affairs as in this private domestic circumstance. But I own that gives me many melancholy reflections. Now that the citadel of Tournai¹ is surrendered, upon the most shameful, disadvantageous capitulation, worse than that of being made prisoners of war, I own I dread where the French will turn their numerous army next. I saw Marshal Königsegg's advice about the manner of defending this citadel, and cannot help thinking that if it had been followed, the place might have held out much longer. The advice appeared to be very wise, but I fear the execution has been a mixture of cowardice and treachery. The defeat of the combined army in Silesia is a mortifying event. On that side, at least, we were flattered with superiority of force and certainty of success, but there is no dependance to be had on previous representations. The King of Prussia made a long forc'd march and it looks very much as if Prince Charles was surpris'd; but I know nothing of their being caught in their cups, and there is no depending on any such stories². I have been long of opinion for taking that weight out of the scale of France, upon some terms or other. God knows how it can be brought about now³....Don't be alarmed if the newspapers should tell you that I am not well. So far is true, that on Thursday I found myself disordered a little. Dr Mead thought it a slight feverish indisposition and compelled me to bleed and keep house for a day or two. But I thank God I find myself in a manner well, and hope to be at Westminster on Tuesday, which is the next sitting day. Be assured I am ever most affectionately yours,

HARDWICKE.

All our best compliments and wishes attend my Lady Grey.

¹ The capitulation was signed June 20, the garrison being disqualified from military service till January 1, 1747. P. Y. in a letter to the elder Horace Walpole gives an account of the treachery of the engineer Hertslet, who, on the third day of the siege, escaped to the French and assisted them with information. Printed by Stanhope, iii. p. lxvi.: see also another account in F. H. Skrine's *Fontenoy*, 140.

² Frederick defeated Prince Charles of Lorraine at Hohenfriedberg on June 3.

³ A preliminary convention was signed between England and Prussia on August 26, by which Silesia was guaranteed to Prussia under the Treaty of Breslau.

H.R.H. the Duke of Cumberland to the Lord Chancellor

[H. 1, f. 4.]

WILWORDEN, *July 24th, 1745.*
August 4.

MY LORD,

I am ashamed of my not having answered your first letter sooner, but really time is so scarce that I flatter myself you will forgive it. As to your second, it was kept at Ostend by the unfortunate surprise of Gand¹. Mr York[s] preferment ought to [be] agreeable to you on account of his having so well deserved it by his behaviour as much as by being your son; and I should have recommended him to the King at first, if I had not thought it my duty to take care of poor Lord Cathcart, who left me without any other friend and whose father lost his life in the service of his country. I'll not fatigue you with the disagreeable account of our situation as you have perceived [it] all along by all my letters, but assure you that all I can contribute to the safety of England, either at home [or] abroad, shall be attempted by your affectionate friend

WILLIAM.

Lord Chancellor to the Duke of Newcastle

[N. 19, f. 523.]

POWIS HOUSE, *July 25th, 1745.*

MY DEAR LORD,

I was extremely concern'd that, when I receiv'd Mr Ramsden's billet, it was impossible for me to come to the Cockpit². But it was really impossible; for I was then in the full course of the business of the Court, and the Master of the Rolls not there. Besides, as it was full two o'clock before I receiv'd the message, it would unavoidably have been near three before I could have got to the Regency, and to have come in at that time of the day would have had an odd appearance. As I foresaw this yesterday, I took the liberty to apprise your grace of it before we parted.

I am etc.

ever yours

HARDWICKE.

I hope nothing very disagreeable happened.

¹ July 15.

² Treasury and Privy Council office.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 177.]

NEWCASTLE HOUSE, July 25th, 1745.

MY LORD,

I am heartily sorry you could not come to us. Your authority might have done something. The meeting was as disagreeable as possible, and indeed many things were said that ought not to have been heard. However we upon the whole thought it right to order the two battalions to go to Ostend immediately....*

I am ever yours

HOLLES NEWCASTLE.

For my own part I shall be unwilling to attend, when I can't be supported and protected by your authority.

* N.B. I have a notion, that the Rebellion being begun, my Lord was against sending the two battalions to Ostend; the dispute at Council probably was with Mr Pelham. II. [See p. 438.]

CHAPTER XIV

THE REBELLION

THERE are times when those who have most at heart the national welfare and see furthest into the future are appalled at the prospect, when the betrayal of the public interests by the rulers and the folly of the ruled, together seem the signs of that madness which precedes destruction and the signal of approaching and inevitable ruin. Such a period was the present year of 1745. "I never remember my Father," writes the Chancellor's eldest son, "to have been in such low spirits as he was this summer. The news of the Prussian convention¹ a little revived him: the Rebellion called forth his whole activity²."

The outlook was indeed gloomy. The campaign in Flanders had ended disastrously; the French had gained a signal triumph over the British forces and had been left a clear field to push still further their victories, while the son of the Pretender to the British throne, assisted by the ancient hereditary enemy, had actually landed on British territory and begun his adventurous attempt with astonishing success. Having set sail on July 15, 1745, from Nantes and landing on July 25, at Borrowdale in the Western Highlands, with only 70 or 80 companions³, Prince Charles quickly gathered a small army of followers around his standard and escaping Sir John Cope, who with an inferior force was afraid of engaging, occupied the town of Edinburgh on September 17⁴. A series of alarming disasters followed. Sir John Cope, returning from the North by sea and landing at Dunbar, was totally defeated at Prestonpans on September 21, when the foot were exterminated and the cavalry with

¹ See p. 412 *n.*, and below, p. 626.

² H. 60, f. 175.

³ pp. 434 sqq., 451; H. 98, f. 73 and H. 48, f. 305; A. Lang's *Hist. of Scotland*, iv. 457.

⁴ p. 456; Capt. Th. Hamilton writing to Lord H. October 13, 1745, describes them as mostly young lads, including no single person of distinction from the Lowlands and receiving no sympathy from the Roman Catholics. H. 240, f. 131.

their general fled to Berwick, leaving the baggage and treasure in the hands of the enemy¹. On November 8 the Rebels crossed the border, with the young Prince, a fine gallant figure, marching at their head, and seized Carlisle on November 14; while in the meantime the Government was in daily expectation of a French descent on the Southern coasts.

But the perils from abroad, serious as they were, were not the principal cause of the Chancellor's anxieties and forebodings. It was from the dangers that beset the State from within, and not from without that his fears chiefly arose. Few statesmen have ever been placed in a situation of greater difficulty or embarrassment. Not only had a great peril to the State to be confronted but it had to be confronted almost alone. In whatever direction he looked, he could see little else but disunion, selfish intrigues, apathy and neglect of the national interests and security; and no signs of vigour, public spirit or patriotism appeared in any class or in any quarter. The weakest point of all was the monarchy itself; for the King's declared and unrestrained Hanover partialities and separate electoral policy had ended by estranging the people from the throne, and by endangering, at the very moment of the Jacobite invasion, the popularity of the whole Revolution settlement.

And while the King thus destroyed the sentiment of loyalty to his dynasty and of national unity in the people, his estrangement and hostility obstructed and nullified the action of his responsible ministers. Absent in Hanover at the time of the Prince's landing, he had only returned on August 31 to place himself under the influence of Lord Granville, the chief of a faction, composed of a number of persons of political and social importance and including members even of the Board of Regency, of whom some were in secret sympathy with the Pretender and others had joined the conspiracy with the aim only of ruining and destroying the administration.

By these mischievous intriguers the impending danger was belittled, the action of the executive obstructed and the most obvious measures proposed for the security of the throne hindered. They first propagated the spirit of incredulity. The whole expedition, they represented, was a fiction, serving merely as an excuse for the administration to abandon the campaign in Flanders

¹ pp. 451, 457 sqq.; II. 15, f. 101; II. 103, f. 10; II. 6, f. 142 for account of the battle from the *Caledonian Mercury*.

and the King's allies, and to defeat the great continental schemes¹. Next it was of no consequence and the Prince had gone back to Brest. In the Drawing Room it was the talk as late as the end of September that nothing need be done to arrest the advance of the Rebels but to read a Proclamation². The King was encouraged in his obstruction of the measures of defence, and in his refusal to summon the troops from abroad and, as the Chancellor declared indignantly, "opiates were administered to the people when the spirit of the nation wanted rousing and animating."

The false and foolish security thus instilled soon turned, on the first reverse, to panic. In September it was told at the turnpike gates in the country that the Chancellor was turned out, the Pelhams fled—as some related, to the Pretender—and London in an uproar³. A run was made upon the Bank of England on September 24, which was compelled to pay its creditors in shillings and sixpences⁴. In November, after the defeat of Prestonpans the roads and inns in the North were crowded with fugitives from the enemy, one individual abandoning his family, surrendering the control of his affairs to his daughters, and not feeling himself secure till he had put the sea between himself and the dreaded foe and found an asylum at the Hague⁵. In December, London was again alarmed by a report that the French had landed in Pevensey Bay. In the House of Commons some disaffected or cantankerous members, including Fox and the younger Horace Walpole, who were supported and encouraged by the Prince of Wales, opposed in November the grant for the militia, on the ground of the dangerous influence supposed thereby to be given to the nobility at the expense of the crown; and a motion to prevent the officers of the newly-raised regiments from keeping their rank after disbandment was only defeated by a few votes⁶; while in December, some were found to denounce the voluntary subscriptions as

¹ pp. 441, 444, 448, 450 sqq., 457.

² p. 463. Several anonymous letters were received by the Chancellor warning him of the attempts being made by the enemy to induce a feeling of false security and urging the necessity of a strong force to reduce the rebels. II. 240, ff. 117 sqq. *passim*.

³ p. 461.

⁴ *Grenville Papers*, i. 40; according to another report the Bank paid in silver in order to hinder the dispatch of money to the rebels in Scotland (E. J. Climenson, *E. Montagu's Corr.*, i. 207).

⁵ p. 469.

⁶ Coxe's *Pelham*, i. 277; *Parl. Hist.* xiii. 1382; according to Walpole, of the regiments to be raised by 13 lords, not 6 were embodied and not 4 employed, *George II*, ii. 96; *Letters*, ii. 146.

infringing the right of Parliament alone to levy money, and to compare these with the benevolences exacted by Charles I¹. The danger to the country, wrote the Archbishop of York, came from Westminster and not from the North².

The responsible minister in Scotland itself, the Marquis of Tweeddale, an adherent of Lord Granville, whose daughter he afterwards married, followed his lead in ridiculing the invasion and in opposing all vigorous measures, and especially the summoning of the British forces from Flanders³. On August 24, 1745, he wrote to Lord Milton, the Lord Justice Clerk, still expressing incredulity, regarding the arrival of the Prince, though he had received the clearest and most authoritative information of the fact, while his friends and followers insisted that the rebellion was only a "rabble," and a "farce"⁴. The ministers were thoroughly discouraged and paralysed by the withdrawal from them of the King's confidence. On September 13, 1745, Horace Walpole writes, "Spirit seems to rise in London, though not in the proportion it ought; and then the person most concerned does everything to check its progress: when the Ministers propose anything with regard to the Rebellion he cries 'Pho! don't talk to me of that stuff!' Lord Granville has persuaded him that it is of no consequence"⁵. The Duke of Newcastle writes to the Duke of Richmond on September 21, 1745, "The King will hardly vouchsafe to say one word about his own business"; and later, "The Closet grows worse than ever. We are now come to bad language; incapacity to my brother, spectator of other people's policy and measures, and yesterday *Pitiful Fellows*: Lord Chancellor and I are of opinion it is impossible to continue under such treatment and management of business"⁶. Henry Pelham was despondent⁷. Within the council of regency even, there were some secretly disaffected, and some openly lukewarm. Lord Granville refused to follow the general example in subscribing for the public defence, "in the style," wrote Horace Walpole, "of his friend Lord Bath, who has absented himself from the Council whenever any act of authority was to be executed against the rebels"⁸.

¹ p. 478.

² p. 465.

³ Coxe's *Pelham*, i. 261.

⁴ J. Home, *Hist. of the Rebellion*, 288-9; Coxe's *Pelham*, i. 264; G. W. T. Omund, *The Lord Advocates of Scotland*, ii. 12.

⁵ Letters, ii. 130, also 134 and 137.

⁶ pp. 454, 468; *Hist. MSS. Comm. Rep.*, i. app. 115.

⁷ See his letter to Trevor Dec. 11, 1745, in Coxe's *Pelham*, i. 282.

⁸ Letters, ii. 153.

The country had been denuded of its military forces for the campaign abroad and no zealous support could be expected from the people themselves who, though far from wishing for a change of dynasty, were stirred by no enthusiasm and aroused by no sense of danger¹. In London itself an active agitation in favour of the Pretender was in progress, to be supported on his approach by a force from Wales, headed by Sir Watkyn Williams Wynn².

In the midst of all these difficulties, impeded on the one hand by the intrigues and influence of the disloyal and disaffected, and on the other by the levity, apathy and helplessness of the Whig followers of the administration, deprived even of the support of the Sovereign in the defence of his own throne, and alarmed by the incapacity and failure of the military commanders, the Chancellor proceeded undeterred by these discouragements, with characteristic firmness and quiet determination, to provide, as far as it lay in his power, for the public safety. On the news of the Prince's landing, he had at once, as one of the regents, taken the lead in giving orders for the defence of the Kingdom. The ministers were gradually brought into line and inspired with some of his energy. On August 6, a reward of £30,000 was placed on the head of the Prince, in case he should land, a measure which has been severely reprobated on moral grounds by historians and which would not be defended now, but which at that time was no unusual method of dealing with those who remained at large under the ban of treason. The Young Pretender retaliated by a similar declaration against the "Elector of Hanover³." In September, the leading merchants and citizens of London met together and signed a declaration of their willingness to receive bank notes instead of cash payments, in order to support the public credit⁴. The King was at last impressed with the reality of the danger, and the troops arrived from abroad with the Duke of Cumberland at their head. On the return of the King and the opening of Parliament, on October 17, 1745, the Chancellor, in drawing up the Speech from the Throne, took the opportunity to make an eloquent and vigorous appeal to the nation,

¹ Cf. Gray to Walpole, Feb. 3, 1746, quoted by Stanhope, *Hist. of England*, iii. 406: "Here we had no more sense of danger than if it were the battle of Cannae. I heard three sensible middle-aged men...talking of hiring a chaise to go to Caxton...to see the Pretender and Highlanders as they passed." The general attitude of the people was compared by the elder Horace Walpole to that of the spectators at a bear-fight who looked on and cried "Fight dog, fight bear." Coxe's *Lord Walpole*, ii. 71.

² *Quarterly Review*, 190, p. 450.

³ Coxe's *Pelham*, i. 254, 269; II. 522, f. 99; Walpole's *Letters*, ii. 125.

⁴ p. 463; H. 15, f. 101.

—one of the happiest examples of the long series of King's Speeches and Addresses of his composition. The concluding passages ran :

"The many convincing proofs this Parliament has given of their duty, fidelity and affection to me and of their steady adherence to the present happy Establishment and the true interest of their Country, make me repose myself entirely on the zeal and vigour of your proceedings and resolutions. I am confident that you will act like men who consider that everything dear and valuable to them is attacked ; and I question not but, by the blessing of God, we shall in a short time see this Rebellion end, not only in restoring the tranquillity of my Government, but in procuring greater strength to that excellent Constitution which it was designed to subvert. The maxims of this Constitution shall ever be the rules of my conduct. The interest of me and my people is always the same and inseparable. In this common interest let us unite, and all those who shall heartily and vigorously exert themselves in this just and national Cause may always depend on my protection and favour!"

The addresses of both Houses were unanimously agreed to and large sums were voted for the defence of the Kingdom, for the regular forces and for the militia². On November 23, the whole body of the Law, in 250 coaches, attended on the King, seated on his throne, with a loyal address³.

The whole summer of that year the Chancellor remained in town engaged in the work of superintendence and organisation. We find him urging on the Duke of Newcastle the provision of artillery for the troops sent to the North, pressing measures for raising the national spirit, suggesting routes of march for the troops, proposing methods of supplying more officers and insisting on the immediate recall of the British cavalry from Flanders⁴. His example and zeal put new life into the public measures. Nor was his influence only felt at the centre of affairs. His pen was employed as well in rallying to the support of the throne the leading men in all parts of the country, in instilling courage and vigour into their measures and in animating the people in defence of their religion and liberties.

¹ II. 521, f. 108; *Parl. Hist.*, xiii. 1310. See also the address in reply, *Ib.* 1326 and II. 521, f. 112.

² Coxe's *Pelham*, i. 276.

³ p. 467.

⁴ pp. 458, 466, 472.

One of his correspondents was Lord Glenorchy, connected with him in kinship as the parent of his eldest son's wife, who in the incapacity of his father, the Earl of Breadalbane, through extreme old age, stood at this time at the head of the powerful and numerous clan of the Campbells of Breadalbane. On August 15, and in subsequent letters¹, the Chancellor urges the zealous employment of his influence on the side of the Government in this crisis, when "our all appears at stake," and especially in restraining his people from joining the Rebellion, as they had in 1715. In the event, Lord Glenorchy proved one of the most active and useful adherents of the administration in Scotland. Unlike the Duke of Argyll² and the Duke of Atholl, who at once took refuge in England, he remained in Scotland during the whole time of the Rebellion and succeeded, though with difficulty, and while the rebels marched through his estates, in keeping his clan quiet and even in raising 400 men, who joined the royal forces, and distinguished themselves at Culloden³.

Another correspondent and staunch friend and supporter was Duncan Forbes of Culloden, the Lord President of the Court of Session, and perhaps the greatest Scotsman of his time. Born in 1685, the owner of the Culloden estate, he had rendered great services to the Government in the former rebellion; and notwithstanding his independent opposition to the severe penalties imposed by the Chancellor upon the town of Edinburgh, in consequence of the Porteous riots in 1735, had been made Lord President the same year. The most conspicuous and the most revered figure on the Scottish Bench, he had for some time carried on alone the whole government of the North. On the first news of the Prince's landing, he returned to Culloden where his services were of the greatest utility, and owing to his influence many Highland Clans refrained from joining the Rebellion; while, by his and Lord Loudoun's co-operation, a force of 2000 men was raised, to join in the work of repression⁴.

¹ PP. 437, 445 sqq., 465.

² Walpole's *George II* (1847), i. 277.

³ See letter from a captain of Lord Glenorchy's Argyllshire Militia on the share of his men in the victory, II. 103, f. 36.

⁴ See the interesting account of this great man in J. Ramsay's *Scotland and Scotsmen* (1888), i. 43 sqq.; *Life* by J. H. Burton; W. L. Mathieson, *Scotland and the Union*, 377; *Ed. Rev.* xxvi. 107. For his subsequent correspondence with Lord Hardwicke and the ill return for his great services, see below, p. 531 and chap. xxvi. Dec. 27, 1737, and following letters. He was the writer of some theological works and as a judge, a patriot and a Christian, according to Warburton, he was one of the greatest men that Scotland had ever produced. He died in 1747 (*Dict. Nat. Biog.*). See his portrait in *Life of*

Another adherent of Lord Hardwicke was Thomas Herring, now Archbishop of York, a man after the Chancellor's own heart. Born in 1693, he became fellow of Corpus Christi College, Cambridge, in 1716, and subsequently preacher to the King and at Lincoln's Inn, where his eloquence, ability and simple piety won the Chancellor's friendship and respect¹. After holding various livings, he was presented to the rectory of Bletchingley in Surrey, where he became a neighbour of Lord Hardwicke at Carshalton. He was a man of straightforward, honest character, of great kindness of heart, of wit and of broad and liberal religious views which appear often in his letters, and with none of the characteristics of the professional cleric. According to Dr Jortin, "this amiable prelate had piety without superstition, and moderation without meanness, an open and liberal way of thinking and a constant attachment to the cause of sober and rational liberty, both civil and religious. Thus he lived and died, and few great men ever passed through this malevolent world better beloved and less censured than he"². "He was early under my Father's patronage," writes the second Lord Hardwicke, "and one of his most intimate acquaintance.... Of all the clergymen I ever knew he was the most acceptable to the laity in general. He was a popular preacher, and though his delivery or elocution had something particular, it was captivating and agreeable. He was not fond of printing his sermons, perhaps they were better to *hear* than to *read*. I believe he ordered them all by his will to be burnt³. His general behaviour and manners were mild and humane. ... My Father was his chief confidant and adviser. He died in 1756 after a lingering illness of the consumptive and asthmatic kind, and saw none of the reverses which happened afterwards to his old friends, having the good fortune to pass his days in regular and settled times⁴." In 1732 he was made Dean of Rochester and in 1737, through Lord Hardwicke's influence, Bishop of Bangor. Writing on December 22, he congratulated himself on having gained in the Chancellor "one who will valiantly and vigorously defend the cause of revealed religion without injuring that of natural, and not by giving up and depreciating the latter by a sandy foundation for the former." "Men of science," he writes to

Prince Charles Stuart, by W. D. Norie, i. 182 and in the *Culloden Papers*, which contains some of his correspondence.

¹ *History of Southwell*, by W. D. Rastall, 316 and *Corpus Christi College*, by H. P. Stokes.

² J. Jortin, *Life of Erasmus* (1758), i. 42.

³ Several of his sermons however were printed.

⁴ H. 251, f. 346; also Walpole's *George II* (1847), ii. 374.

Lord Hardwicke, "must have their systems, but yet for all the good that their disputes and subtleties have done in the world, I believe we may venture to say that the gospel is infinitely better for common instruction and practice than it has either enthusiasm, nor metaphysics nor school divinity in it¹." In 1742 he refused the Archbishopric of Dublin, but next year through the Chancellor's influence, who highly valued his character and ability and wished to see his talents given scope in high place, he was appointed Archbishop of York², while later, in 1747, he was made Archbishop of Canterbury.

On the outbreak of the Rebellion, the Chancellor wrote urging his active co-operation in defending the Kingdom. Archbishops of York had before drawn the secular as well as the spiritual sword. Was it not time for the pulpits to sound the trumpet against Popery and the Pretender? His admonitions did not fall upon stony ground. The Archbishop immediately put himself at the head of the county and called a meeting of the principal gentlemen who entered into association; while funds were subscribed to the amount of £40,000 and bodies of infantry and horse were formed under the command of the Lords Lieutenant³. "Dr Herring, the Archbishop of York," writes Horace Walpole, "has set an example that would rouse the most indifferent: in two days after the news arrived at York of Cope's defeat, and when they every moment expected the victorious rebels at their gates, the Bishop made a speech to the assembled county that had as much true spirit, honesty and bravery in it, as ever was penned by an historian for an ancient hero⁴." His popularity, influence and energy were so great that Tories joined with the Whigs in the national defence, and even a few Roman Catholics sent in subscriptions. The Lord Mayor, at first suspected of Jacobitism, who had remained inactive, followed the Archbishop's lead and the poorest citizens contributed to the funds. According to Colonel Joseph Yorke, the feeling in the North was entirely against the rebels, and the presence of a leader would have proved it long before⁵. On September 24, 1745, a great meeting was held at York⁶, the most numerous ever known,

¹ H. 250, f. 5.

² H. 250, ff. 16, 19.

³ List of names H. 250, f. 66; the Archbishop's account of proceedings, Dec. 8, 1745, H. 541, f. 62.

⁴ *Letters* (1903), ii. 139.

⁵ p. 479.

⁶ The Archbishop's speech on this occasion, his sermon and his speech of congratulation to the Duke of Cumberland after Culloden in W. D. Rastall's *Hist. of Southwell*, 318-323.

and a remarkable zeal was shown among all classes and all parties in uniting for defence. The example of York was followed by Scarborough, and soon in every part of the county associations, levies and subscriptions testified to the general spirit aroused against the Rebellion.

Meanwhile the progress of the rebels had increased the alarm. The Duke of Cumberland, following his troops from Flanders, had returned to London on October 18, attended by Col. Joseph Yorke who, as his aide-de-camp, accompanied him throughout the campaign and to whom we owe some graphic and detailed accounts of the exciting events in Scotland. On November 28, the Duke took command of a force of about 10,000 men at Lichfield, and on December 3, marched to Stone, hoping there to encounter the enemy. The Prince, however, succeeded in avoiding both this force and the army of Wade at Hexham¹, and marching on, arrived at Derby the next day, the Duke hastening after him in vain to Stafford and Coventry.

For the moment there was nothing but the guards and the trained bands, encamped at Finchley, and less in number than 6000, of whom most were raw and untrained, between the rebels and London. The Jacobite party in the city headed by Alderman Heathcote, one of the city members, was preparing to join the Pretender and a force was expected from Wales, headed by Sir Watkyn Williams Wynn to co-operate. On December 6, long remembered as Black Friday, a general panic ensued. In the opinion of Henry Pelham, London could scarcely have been defended, had the reinforcements from abroad been delayed only a few weeks by contrary winds or accidents². "The King's Crown," the Duke of Newcastle wrote to the Duke of Cumberland, "would have been in the utmost danger³." "I look upon Scotland as gone," wrote Horace Walpole⁴.

In reality, however, the danger was much more apparent than real. The Chancellor does not appear to have shared the extreme apprehensions entertained by the Pelhams. He had from the first

¹ p. 467.

² *Parl. Hist.* xiv. 1293.

³ Coxe's *Pelham*, i. 268. The Pelhams have generally been represented as panic-struck and helpless at this crisis, but there appears no evidence whatever of the truth of the charge, and the Jacobite nonsense from the *Memoirs of the Chevalier Johnstone* (1870), i. 47 is not worth quoting. Rumours, however, though false, may sometimes be evidence of the general opinion. In September it had already been reported (see above) that the Pelhams had fled to the Pretender.

⁴ *Letters*, ii. 128.

rightly estimated the strength of the Rebellion and regarded it in its true proportions¹, and he expressed no alarm or doubt as to the ultimate issue. The success of the rebels had in fact been a marvel but had no solid foundations. Not one person of consequence had joined them since they passed the Tweed. The promised French support had failed them. London would have given them no welcome. They were being followed by the two armies of Cumberland and Wade, and their small force of 5000 men was in imminent danger of being surrounded by 30,000. In Colonel Joseph Yorke's opinion, the best thing that could happen was for the rebels to continue their march to London, when they must be undoubtedly smashed to pieces, and the worst, a successful retreat to Scotland, where, protected by their mountains and fastnesses and surrounded by a friendly population, they might keep at bay for a long time superior forces².

Compelled by these circumstances, the rebels almost immediately, on December 7, began their retreat, with every sign of failure. "Their leader," wrote Thomas Anson to his brother the Admiral, "was observed to be much more gloomy than usual, their ladies wept, and the whole body marched out with visible dejection and despair³." They effected their march homewards with such speed that the Duke of Cumberland, who pursued them with his cavalry and 1000 mounted foot soldiers, did not overtake them for some time⁴. A delay of one day had been caused in the pursuit by orders, later countermanded, from London of December 12 to the Duke, to return with the main portion of his forces to defend the country against the expected invasion, intelligence having come from several quarters of the great preparations at Dunkirk, where the Duc de Richelieu and the Pretender's second son had arrived and where transports were being made ready to embark 12,000 or 15,000 men⁵. At length, on December 18, the rebels were overtaken in the neighbourhood of Penrith, when an attack on their rearguard at Clifton, variously described as a success and a failure, took place⁶. Carlisle surrendered on December 30 to the

¹ Cf. Alexander Carlyle's opinion of the rebel forces, *Autobiography*, 147.

² p. 476; cf. *Hist. MSS. Comm. Rep.* vii. 704. Lord George Murray to the Young Pretender: "Had not a Council determined the retreat from Derby, what a catastrophe must have followed in two or three days."

³ Add. 15,955, f. 45.

⁴ pp. 477 sqq.

⁵ pp. 481, 489.

⁶ p. 485; R. S. Ferguson, *Retreat of the Rebels through Westmoreland (Cumb. and West. Ant. and Arch. Soc. Trans. x.)*; A. Lang, *Hist. of Scotland*, iv. 485.

Duke¹, who, a few days afterwards, on January 5, 1746, returned to London to organise measures for resisting the expected French invasion which, however, through the vigilance of the navy, was frustrated, only one transport with some companies of soldiers succeeding in reaching Scotland². During the Duke's absence the English troops, commanded by General Hawley, an officer of inferior type, brutal and unintelligent³, and who had followed the rebels to relieve Stirling, were surprised and defeated at Falkirk, and the Duke was immediately sent back to the North to resume the command of the army. On the 30th, Col. Joseph Yorke announces his own and his master's arrival at Holyrood House. The pursuit of the rebels was begun immediately on the day following⁴. Stirling was relieved on February 2, and Perth occupied on February 6, a body of 5000 Hessians, who had landed at Leith, on February 13, being left to garrison these places and block the way against the return of the rebels.

In the midst of the successful campaign in Scotland, the army heard with consternation of the sudden resignation of the administration and of the advent to power of Lords Granville and Bath on February 10. This event, which Charles Yorke describes as "the sun stopping in his course at noonday," and which took the nation completely by surprise, had been apparently long intended and prepared by the King, who had never acquiesced in the expulsion of Lord Granville from the cabinet. His hostility to the actual ministers, moreover, and his fears of being made a "prisoner on the throne" had been zealously kept alive by the two lords ambitious of succeeding them. The more favourable turn of events now seemed to offer an opportunity of executing the desired change. The cause of dispute was, as before, a disagreement on foreign measures and in addition the admission of Pitt to office which the ministers, in accordance with their promise and in the national interest, felt it their duty to urge strongly upon the King. The King's refusal to admit Pitt was not, however, the direct cause of the resignation of the cabinet. This was founded on the general constitutional deadlock involved by the systematic and deliberate withdrawal from the ministers of the Sovereign's confidence which was placed elsewhere, with persons who gave secret

¹ pp. 487, 492.

² Cox's *Pelham*, i. 273.

³ Cf. Wolfe's estimate of him, *Life* by R. Wright, 329.

⁴ pp. 493 sqq.

counsels and were responsible neither to Parliament nor to the nation¹.

Matters came to a crisis at the beginning of February. On the 6th, Lord Bath on coming out of the King's closet actually informed Lord Harrington that he had advised the King to reject the ministerial policy, to refuse Pitt's appointment and to pursue his own measures abroad. "I have advised the King to negative the appointment of Mr Pitt and to pursue proper measures on the Continent," to which Lord Harrington replied, "They who dictate in private should be employed in public?" On the day following the King, who had for some time distinguished Lord Harrington from the rest of the cabinet and who counted on his support, called him into the closet and made every effort, by entreaties and persuasions, to gain him, and on failing broke out into the most violent reproaches. On the 8th a meeting of the ministers was held at the Chancellor's house, when it was decided unanimously to resign office immediately. On February 10 and 11 all the ministers gave up the insignia of their offices, and the Chancellor only waited till the end of term to return the Great Seal into the King's hands, while Lord Chesterfield from Ireland declared his intention also to resign². Lord Bath was appointed First Lord of the Treasury, Lord Granville Secretary of both the departments of State and Lord Carlisle Privy Seal.

The firmness and unanimity of the administration, however, disconcerted the plans of the King who, in getting rid of the Pelhams, had counted on the support of various individuals beyond his two favourites and the Tories, to whom he could not venture to entrust the direction of affairs. There were none bold enough or competent enough to fill the numerous offices vacated. Lords Granville and Bath had no influence or following whatever in the Parliament or nation, and no means of carrying on the Government or of supporting the war. The public credit fell immediately. A run was made once more upon the Bank and the subscription of £2,500,000, carried for Henry Pelham, was withdrawn. Hop, the Dutch minister in London, dispatched immediately a messenger to Holland and declared that the States would at once submit to the

¹ Cf. Glover's *Memoirs*, 37, who gives a completely false description of the situation and who is in error in making the whole turn upon the King's refusal to admit Pitt.

² Coxe's *Pelham*, i. 289.

³ *Ib.* 482; Chesterfield's *Letters* (1892), 791.

terms of France¹. The long procession of about 45 persons bearing seals, staves, keys and commissions which arrived at the King's closet, alarmed him and convinced him of the hopelessness of his attempt. At length in despair he shut his door and refused to admit any further resignations ; and on the morning of the 12th he dispatched Thomas Winnington to Henry Pelham to desire the old ministers to return to their places². The next two days were spent by the ministers in discussions and deliberations as to the conduct to be pursued. On February 13, a meeting took place, when their demands were formulated in the following memorandum to the King³.

Minutes, February 13, 1746, at the Duke of Dorset's³

That, out of duty to the King and regard to the public, it is apprehended that His Majesty's late servants cannot return into his service without being honour'd with that degree of authority, confidence and credit from His Majesty, which the ministers of the Crown have usually enjoy'd in this Country, and which is absolutely necessary for carrying on his service. That His Majesty will be pleas'd entirely to withdraw his confidence and countenance from those persons who of late have, behind the curtain, suggested private counsels with the view of creating difficulties to his servants, who are responsible for everything, whilst those persons are responsible for nothing.

That His Majesty will be pleased to demonstrate his conviction of mind that those persons have deceiv'd or misled him, by representing that they had sufficient credit and interest in the nation to support and carry on the public affairs, and that he finds they are not able to do it.

That in order to these ends, His Majesty will be pleas'd to remove etc....

That he will be graciously pleas'd to perfect the scheme lately humbly propos'd to him for bringing Mr Pitt into some honourable employment, and also the other persons formerly nain'd with him.

That His Majesty will be pleased to dispose of the vacant Garters in such manner as to strengthen and give a public mark of his satisfaction in his administration.

That, as to foreign affairs, his Majesty will be pleas'd not to require more from his servants than to support and perfect the plan which he has already approv'd.

¹ Walpole's *Letters*, ii. 175.

² Cf. *Hist. MSS. Comm.*, Marquis of Lothian at Blickling, 158.

³ H. 522, f. 117; pp. 498 sqq.

On February 14, the Chancellor had a long audience with the King who received him with great civility. He impressed upon him once more the absolute necessity of union and concert between the Sovereign and the ministers, and represented that anything, even the new administration, was better than the continuance in office of a cabinet deprived of the King's confidence. Immediately on his withdrawal, Lord Granville entered the closet and gave back the seals which were immediately returned to the Duke of Newcastle and Lord Harrington, and the old ministers one after another resumed their places. Lord Marchmont "saw Lord Granville go out of the Closet having resigned the seals; he met the Duke of Newcastle going in, and they made each other a dry bow and passed on¹." Lord Granville's and Lord Bath's adherents were expelled from the Government, and Lord Tweeddale, who had resigned on January 3, 1746², was excluded and his office, which had been so ill executed, suppressed. Fox was made Secretary at War and Pitt was appointed Vice-Treasurer of Ireland, shortly afterwards, on the death of Winnington, becoming Paymaster of the Forces.

Thus ended "the ministry of 40 hours," "an event," as the Chancellor writes, "which will appear to posterity more surprising than anything that has happened³." The attempt at carrying on the administration by irresponsible royal favourites had once more been crushed, and parliamentary and constitutional government by responsible ministers, as settled at the Revolution, again successfully upheld. The two chief movers in this intrigue withdrew overwhelmed with ridicule, lost for ever their political prestige and ceased to give anxiety to the Whig ministers. "Lord Bath," writes Lord Chesterfield, "retired immediately to his lodging at Richmond to think over at leisure his late conduct, and took my Lady with him to soothe his melancholy and alleviate his disappointment⁴. He threatened loudly that he would give the world an exact account of the whole proceeding of these transactions in a pamphlet⁵. Nay, he went so far as to tell Lord Harrington that it should be such a one as should set the whole nation in a flame, but the flame has ended in smoke. There is a story goes about

¹ *Marchmont Papers*, i. 171-4.

² *Walpole's Letters*, ii. 167.

³ p. 508.

⁴ Lady Bath (*née* Anne Maria Gumley) was not in common estimation a person well fitted to administer consolation, and was generally the object of ridicule.

⁵ This, in abuse of the ministers, he had been ordered to prepare by the King, *Life of Bishop Newton, Works* (1782), 43.

that one of his footmen meeting some other person's footman, the other footman said—‘I hear, Jack, your Lord was near getting a good place,...only nobody would give him a good character.’ He has been seen but little since his fall....They blame one another, but certainly Granville has got off better than Bath¹.” “Lord Granville,” writes Horace Walpole, “is as jolly as ever; laughs and drinks and owns it was mad, and owns he would do it again tomorrow. It would not be quite so safe, indeed, to try it soon again, for the triumphant party are not at all in the humour to be turned out any time that his Lordship has drank a bottle too much?” “Harder, and more ridiculous,” continues Lord Chesterfield, “was the fate of Lord Carlisle. He was bid to go to St James’s on the Wednesday morning to receive the Seal, and being a regular man he came exactly at twelve o’clock, and there he waited till near two. His friend Lord Bath went into the Closet to prepare his way, but the reception he met with there discompos’d him so much that he forgot Lord Carlisle, who was waiting in the outward room, and went down the back stairs...and when he came home he had the pleasure to find a letter upon his table from the sagacious Bishop of Lincoln, directed to the Earl of Carlisle, Lord Privy Seal. This, with the rejoicings of his servants and the congratulations of his Lady and family, made his Lordship have no great stomach to his dinner...³”

The cabinet resumed office greatly strengthened by the exposure of the insignificance and incapacity of their opponents, and secure now of more power in the closet and more weight in the country than had been enjoyed since the fall of Walpole. They, however, took no undue advantage of the King’s weakness. They demanded no favours and disdained to acquire popularity by an ostentatious resistance to the King’s foreign policy⁴. Their return to power was the subject of general satisfaction and the news was received with special acclamation by the army in Scotland, where the Duke of Cumberland made his officers drink a bumper to their old friends and no more changes⁵.

¹ *Eng. Hist. Rev.* iv. 751.

² Walpole’s *Letters*, ii. 176; *George II*, i. 174; but see p. 507.

³ *Eng. Hist. Rev.* iv. 751.

⁴ Almon’s *Anecdotes of Lord Chatham* (1793), i. 212, 218.

⁵ p. 506; Coxe’s *Pelham*, i. 481, 483; cf. H. Walpole run crazy (*George II*, i. 172) who gives a ludicrous travesty of the facts and declares the conduct of the ministers “a flagrancy of ingratitude and treachery not to be paralleled...the King was to be forced into compliance with their views or their allegiance was in a manner ready to be offered to the competitor for his Crown, then actually wrestling for it in the heart of his

The campaign was continued in good spirits. On February 28, the Duke arrived at Aberdeen and after a long wait of several weeks, occasioned by the weather, he moved off towards Inverness on April 8. The River Spey was crossed on April 12¹. On the 15th the army was at Nairn and on the 16th was fought the battle of Culloden. Colonel Joseph Yorke, as the Duke's aide-de-camp, had excellent opportunities for seeing all the details of the engagement and has left a vivid description of the fight, in which the Jacobite cause was finally lost².

There is much similarity in the history of this invasion and the war from which Great Britain has recently emerged. In each an enemy, insignificant in numbers and at first despised, grew formidable from a succession of surprising successes but who, without any settled plan of operations or scheme of attack, guided by circumstances as they arose from day to day, was debarred from the possibility or hope of any final or complete victory³. In each the difficulties of the victorious party were only half overcome at the close of the pitched battles in the field and a period of guerilla warfare had still to be confronted; in each case also the greatest problem proved the re-establishment of government after armed resistance had been effectually suppressed. In both we notice the

kingdom." To balance which severities may be quoted the following lines, the composition of an enthusiastic but anonymous admirer of the Chancellor, from the *London Gazette*—

...But O what strains, what paint can draw
 Hardwicke, great Father of the Law,
 As his own Themis, mild and good!
 Who in the gap of danger stood,
 For England's friends atonement wrought
 And back the Godlike favour brought,
 A Grace beyond a King's command
 A King's request to save a Land.
 When Noah steer'd his pious race
 O'er Nature's liquidated face,
 No food he found for man or brute,
 No land whereon to set his foot,
 Till the young olive he discerned
 With his commissioned bird returned.
 In Hardwicke Britain's dove behold,
 Returning blessings to unfold,
 Revisiting the hallow'd Ark
 In which his Friends and Heaven's embark,
 He tells them of the Flood's decrease
 And speaks to Britain rest and peace. [II. 257, f. 264.]

¹ p. 519.

² pp. 521 sqq.; *The Retreat of the Highlanders through Westmoreland*, by R. S. Ferguson.

³ pp. 528 sqq.

interests of faction placed by a small, but noisy and influential minority, above those of the nation, advantage taken of the national peril to embarrass, instead of to support the administration, and the appearance on the scene of a group of men, the friends of every country but their own, and the betrayers of the common cause; while the unscrupulous methods employed by such persons in our own day in disseminating slanders and false reports of military "barbarities," caution us to be incredulous of the same stories current in the past. The astonishing success of this expedition, moreover, the facility with which a small band of ill-trained and ill-disciplined men could defeat or elude army after army sent against them and advance actually to within a few days' march of the capital, is a warning of what might be the result of another hostile landing upon our shores, when the enemy would arrive in masses, with all the advantage of continental military organisation and equipment, and when the stroke would be delivered upon London within a period not reckoned by months but by hours.

The comparison may be carried a step further. To many the present times through which we are ourselves passing appear such another crisis as that of 1745, in which the national spirit seems to have sunk to its lowest ebb. We are not now endangered by the continental interests and partialities of the Sovereign. Our perils come from the abuse of party government, from the conduct of those who should be the leaders of the nation but who have preferred to be merely the followers and flatterers of the ignorant and helpless mob. Now, as then, there appears little hope of immediate remedy; but it may be a consolation to those who cannot but stand dismayed at the universal signs of weakness, lassitude and public folly of their own times and at the grave dangers to which the nation stands exposed, to remember that it is often when the national spirit has sunk apparently lowest that it is ready, as in 1745, at the clear call of a real leader, to rise highest.

Besides effectually breaking the back of the Rebellion and destroying for ever all hopes of a Jacobite restoration, the battle of Culloden was in many ways a landmark in English history and a cause of national rejoicing. The memory of the gallant dead, pity for the vanquished, sympathy for a lost cause and the record of many acts of heroism and devotion cannot blind us to the ruinous consequences which would have followed from success. The happiness of a whole age, of a whole nation, of Europe, perhaps of the universe, depended upon the event. Had the Pretender

triumphed, he could only have done so, as Charles Yorke wrote, as the slave of a hostile foreign power, of France, and as a tyrant and conqueror of the British people¹; and the imperial history of Great Britain, together with her great mission in the world, must have been blotted out. It put an end to those mischievous and unhallowed alliances between one political faction and the national foe. It was the last attempt to divide two nations whose interests and proximity clearly demanded that they should be united². As Joseph Yorke prophesied to his brother immediately after the battle, it proved the last time that blood was shed in the field by fellow-subjects of this island³. The completeness of the victory, the fact that the battle was won entirely without the help of foreign allies, by British troops alone, who had once more given proof of their natural courage, and that in the general dearth of military talent it was the King's own son who had gained the victory and saved the country, were events of happiest augury to which the Chancellor alludes with joy and satisfaction⁴. Steady devotion to the public good and calm perseverance in duty in the face of perils and discouragements were now rewarded. The hands of the wise and good were strengthened and the influence of the seditious and factious weakened and discredited. A more united people, closer ties between the rulers and the ruled, and between the King and the nation, were now created. Meanwhile, the news had come of the capture on July 27, 1745, by the British colonists, supported by the Navy, of Cape Breton and Louisburg which commanded the entrance to the Gulf of St Lawrence, and of the seizure of French ships and treasure amounting to nearly a million, which seemed to show that the national character still retained its old vigour and had spirit to rise to the highest achievements of courage and resource⁵. The black clouds, which had covered the skies, disappeared after the storm amidst a burst of sunshine, and the national prospect had never looked brighter than at this moment.

¹ p. 462; on June 12, 1745, Prince Charles had written to congratulate Louis XV on the British disaster at Fontenoy, *Mem. of John Murray of Broughton* (Scottish Hist. Soc.), 507.—Cf. Fielding's *Tom Jones*, Bk xi. ch. ii.—“News arrived that the rebels had given the Duke the slip...and soon after...a famous Jacobite squire shook the landlord by the hand saying ‘All’s our own, boy; ten thousand honest Frenchmen are landed in Suffolk! Old England for ever! Ten thousand French my brave lad!’”

² Prince Charles had especially declared against the maintenance of the Union. W. L. Mathieson's *Scotland and the Union*, 366.

³ p. 528.

⁴ p. 525.

⁵ p. 436.

CORRESPONDENCE

Lady Hardwicke to the Hon. Philip Yorke

[H. 3, f. 74.]

Aug. 1, [1745].

DEAR MR YORKE,

...My heart is very heavy. Our folks are very busy at this time by fresh allarms of the pretenders being in Scotland, but I believe the ship Captain Bret fought was the ship he was in, if that be so, he is not yet got there, which may give a little more time to prepare for him¹. The French disclaim sending him there, but that is nothing; they are to take Ostend, whilst Spain sends troops from thence to the other end of the kingdom to distract our measures. This is my oppinon, God grant I may be in the wrong. In the meantime our King's abroad, and our troops also; and I still think the Dutch made some terms last year, notwithstanding their pretensions to the contrary; for their troops don't fight and they give up their towns as soon as France asks for them; and nobody is punished for so doing, but on the contrary, that villain Appius² is rewarded with a civil place of better value than what they took from him. What is this but the blackest treachery. In the meantime our good Allies the Austrians, for what reasons I can't guess³, have neglected to let out the great sluice at Ostend, and tho' that would not have saved the town, yet it might have delay'd the siege some days, an incident of some importance in our present situation.—In the mean while we are marrying and giving in marriage, even our patriot bishops of seventy, are consoling themselves with young wives. In short all ranks, all orders of men think of nothing but pleasure or profit, except your good old simple mother, who really grieves for the distress of this once happy country....

Your most affectionate and faithful

...

M. H.

¹ He embarked on the "Doutelle," a small privateer, at Belle Isle, on 13th July, N.S. accompanied by the "Elizabeth," a French man-of-war. The latter was attacked by Capt. Percy Brett and so badly injured as to be obliged to return to France. The Young Pretender came on alone in the "Doutelle" and landed in the Hebrides on July 23 with seven companions and without supplies, on July 25 sailing to Borrowdale, where he was joined by several more.

² "One Appius, Colonel-Commandant of the regiment of Hesse-Homburg, rode off upon the spur to Ath, with the greatest part of his men, in the very beginning of the action, and with an impudent folly, equal to his cowardice, wrote from thence to his masters that the allied army had engaged the French and been totally cut to pieces, except that part which he prudently brought off safe. I hope after the loss of so much gallant blood, exemplary justice will be done upon the guilty." P. Y. to Horace Walpole, May 16, 1745. Printed in Stanhope, *Hist. of England* (1839), iii. p. lxiv.

³ The project was vetoed by Count Kaunitz, the Austrian minister in Flanders.

Hon. Philip Yorke to the Rev. Thos. Birch

[H. 48, f. 302.]

WREST, Aug. 6, 1745.

DEAR BIRCH...

The news contained in your last [f. 300] is confirmed to us by other advices of very good authority. The alarm is indeed sudden, but I hope we shall have time to prepare for it and that something will be done to keep our spirits from sinking too much, which, in a crisis of danger to the political body, is as bad as having a low pulse and broken state of blood to contend with a disease in the natural. I shall think the Young Pretender very ill advised (unless his designs are better laid than I hope they are) to land in Scotland with no greater force than he can carry in a frigate of 16 guns....Nothing gives me near so much uneasiness as the siege of Ostend...I doubt not when that place is in French hands, they will be continually threatening us with invasions and that they will begin to set about one very soon, particularly if they have views of supporting the Jacobite interest. I begin every day to approve Lord Orford's defensive maxims in foreign politics and am persuaded they were owing, not so much to timidity and ignorance, as a thorough conviction of the French strength, the weakness of our allies and the expenses and hazards wherein a war would involve us. Yet I cannot but say that we were unavoidably obliged to maintain our engagements with the Queen of Hungary from principles of justice and policy, and I shall never repent having concurred in them; for suffering her to be overrun would have been only to put off the evil day a very few months longer, and a right conduct in that court and a more rigorous and early exertion of their force in Holland, of which they often gave us hopes and earnest, would have prevented things being reduced to that deplorable state wherein we now see them....If these designs proceed, we must necessarily recall our troops and leave the Continent to shift for itself. An accommodation between the Queen of Hungary and King of Prussia at any rate seems the only remedy... I have seen an account writ by a friend of ours, and dated the 22nd July N.S.¹, of the army's motions in the Netherlands ever since the action of Fontenoy...The writer thinks the great *Faux Pas* on our side has been the quitting of the advantageous camp at Lessines for one in all respects less safe and important at Grammont, where we faced the enemy 3 or 4 days to no manner of purpose, and also the choosing to protect Brabant rather than Flanders and to cover Brussels rather than Ghent or Ostend. To what councils and influence this unfortunate measure has been owing, you may easily guess², but why the English general gave into it, contrary to

¹ I.e., Joseph Yorke, of July 21, 1745 N.S., H. 6, f. 121. Cf. A. N. C. MacLachlan, *Duke of Cumberland*, 225.

² The allies.

prudence and common sense is past my apprehension. The error is the most fatal one that could be made and one I should think the most obvious to avoid....

Hon. Charles Yorke to Col. the Hon. Joseph Yorke

[H. 37, f. 42.]

Aug. 6, 1745.

...Commodore Warren landed 500 seamen to assist the soldiers in the grand attack at Louisburg, thinking they might be of service to men who had never seen an enemy's gun fired. When they came up to the soldiers they found those New England men, who seem to be of the true Oliverian strain, on their knees at prayers, which provoked our people so much that they fell a cursing them for cowards who were saying their prayers when they should be fighting, on which the New England men said they would not be assisted by such profligates and sent to the Admiral to take back his men, for the design would not prosper. The Admiral withdrew them, and they made the attack without seamen, which proved highly successful. General Pepperell has spent £20,000 of his own money in the project, and gained immortal honour by it....

Lady Hardwicke to the Hon. Philip Yorke

[H. 3, f. 76.]

Aug. 8, [1745].

I had not troubled you with a letter so soon, dear Mr Yorke, but for the last paragraph in yours, in which you so generously offer your money to us, for which my Lord desires I would return his kindest thanks, but that he can by no means accept it. We both wish you an increase of wealth, and every other blessing this world and the next affords, but hope never to be troublesome to our good children in that way, whose prosperity I daily pray for, and whose virtue and affection I can never be thankful enough for, and indeed it is the only comfort I have in the distress'd condition of our country, to think that I nor none of the children God has blessed me with have done aught to draw down his judgments upon us—at least I hope we have not....I wish our army well at home, since 'tis impossible for them to doe anything where they are. The Queen of Hungary has acted as her family have done for a century past, proud without power, and tenacious of rights they have neither men or money to defend; and what doe not all the coffee-houses in town say of another family¹, called to defend the religious and civil rights of a country, they leave to struggle with every difficulty. The proclamation I mentioned to you was published on Tuesday², but a certain Earl³, who was at the ordering of it, went out of town before the

¹ The King who was at this moment abroad.

² The proclamation offering £30,000 for the capture of the Young Pretender. Aug. 6.

³ Lord Bath, probably, who, though not in the Cabinet, was still a member of the Privy Council; see p. 418.

signing it, which is matter of observation; but what is very strange is, that nobody knows yet what is become of the Pretender, at least they did not this morning, and I have not seen my Lord since.... My Lord is in hopes to leave the town on Monday sennight, but proposes going to []¹ for a day or two....

Your most affectionate

M. HARDWICKE.

Lord Chancellor to Lord Glenorchy

[H. 102, f. 32.]

POWIS HOUSE, Aug. 15, 1745.

...On Tuesday last we received advice from the Duke of Argyll and my Lord Chief Justice Clerk that the Young Pretender was landed in the Northmost parts of the Highlands. The place mentioned is Arisaig, in Clanronel's country, being upon the sea to the North of Moidart. He is said to have come in a single ship of 16 or 18 guns attended by about 70 persons, amongst whom are Lord Tullibardine² and old Lochiel³. The circumstances agree pretty exactly with the ship that came from France in company with the *Elizabeth*, which Captain Brett engaged and disabled. Considering where your Lordship is seated you must have heard many more particulars than have come to our knowledge, and I must beg of you to send me as exact an account as you can. Your Lordship's zeal and attachment to His Majesty, his family and government are so cordial and well known that the Lords Justices fully rely upon your vigorous exertion of it on the present occasion....It is a very fortunate circumstance that, in my Lord Breadalbane's weak state, you are on the spot to make use of the powerful influence which you have in that country on the side of the

¹ Destination omitted.

² William Murray, Marquis of Tullibardine, eldest surviving son of John, first Duke of Atholl, had taken part in the rebellion of 1715. He was attainted and the succession to the family titles and estates was conferred upon his younger brother James, now second Duke of Atholl. He was one of the leaders of the expedition of 1719. Arriving now with the Young Pretender from France, he took possession of Blair Castle from which his brother the Duke fled. After Culloden he surrendered and was sent to the Tower, where he died on July 9 in his 58th year.

³ Colonel John Cameron of Lochiel, attainted in 1715 and exiled, does not appear to have accompanied the Prince. His son, Donald of Lochiel, though unwilling at first, took an active part in the Prince's adventure and was one of his most able and zealous followers. He brought 800 clansmen to Glenfinnan on Aug. 19, and his example had much influence in deciding the Highland chiefs. He captured Edinburgh in September and was a chief leader in the series of military successes; was seriously wounded at Culloden, was attainted and, after some adventures, succeeded in escaping to France with the Prince in September 1746. He died in 1748.

government, which cannot fail to give a right direction to your numerous clan which, you know, took a wrong turn on a former occasion. I know your Lordship will use your utmost endeavours to correct that spirit from which great advantages may result, and nothing can be of so great utility as to gather a strength together which may crush this audacious attempt in its beginning. Five thousand arms have been sent into Scotland with orders to be distributed into such hands as can [be] depended upon. Your Lordship has now, in my apprehension, an opportunity of doing great service to His Majesty and your country and of acquiring great merit to yourself. When I look round me and consider our whole situation, our all appears to be at stake....

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 135.]

WIMPOLE, Aug. 23, 1745.

DEAR JOE,

...Would to God the state of our affairs was as much mended [as his own health]; but the clouds continue as black as ever; and how soon the storm may burst upon us, I know not. That the young Pretender is landed on the North-West coast of Scotland is certain from intelligence of all kinds; but it seems to be as certain that he came in a single ship, without troops, attended only by about 70 persons, and with some arms to put into the hands of his friends. But it may be wrong reasoning to lay the less weight upon it for that cause; since it is not to be imagined that he would have taken such a step without some strong engagements for support in this Island, or for assistance from France, after their work in Flanders is finished, or probably both. How weak we are at home is too well known to everybody, and was so when we sent that fruitless reinforcement to Ostend¹;—a place, which the Austrians were determined neither to defend by works of art, nor by that assistance which Nature has put into their power; but instead of it, concurred with the Duke de Boufflers that the great inundation should not be made². I find that on your side the water fault is found that England did not this Spring lay out £20,000 in repairing the fortifications. I remember the thing very well; and remember at the same time that it was the concurrent opinion of everybody that it was then impossible to finish anything in such time, as that it could be of any use this year. Besides the

¹ See above, p. 414.

² p. 434.

monstrous absurdity that, whilst England is paying vast subsidies to the Queen of Hungary, we should at the same time bear the burden of repairing her towns, which she by treaty is bound to keep up¹. As it is, I fear that more of the artillery and ordnance stores which we sent from hence, are fallen into the Enemies' hands than were expended in the defence of the place. However, I am glad the garrison are not prisoners of war, and hope we shall soon see the British part of it here, where I think it may be of more use than it can possibly be with you....

What is the meaning that the Austrians have sent no more than four battalions of the 8,000 men which they were to furnish by their convention with the Duke? I fear too those have been drawn out of some material garrison. I think they are not to be paid for a man more than they actually bring.

I have hitherto had the most disagreeable summer that I have ever spent in my life, and I fear the remainder of it will not be much better. In one thing, indeed, I take great comfort which is His Majesty's return, whose presence was never more necessary than at present, tho' I fear that will prevent me of a great deal of that relief which I used to find in the Country and which is so necessary in my way of life. However, *sic est*, provided we can but defeat the projects of the French and the Pretender....

Sir John Cope is marched to Stirling, and from thence will proceed to Fort Augustus to crush this rising Rebellion in its infancy. Be ready to come to our assistance....

Your most affectionate Father,

HARDWICKE.

Pray lay me at His R. Highness's feet with my most humble duty.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[II. 15, f. 95.]

Camp at VILVORDEN², Sept. 1st, N.S. 1745.

DEAR BROTHER...

I see by the letters to different people which came by the last post from England that the young brat is landed in some one of the Jacobite islands in Scotland....Certainly France sees we have drained our country of troops to reinforce the army

¹ By the Barrier Treaty Austria was obliged to pay the Dutch a subsidy for maintaining the fortifications of the Barrier towns.

² A small place, 7 miles from Brussels, on the canal between that town and Antwerp.

in Flanders, and knows no more effectual way to make us recall 'em than by playing the Pretender upon us. Besides, as this has long been the favourite scheme of Marshal Saxe, I am not surprised (considering in what great repute he is) that it should take place at this time...I am all this while one of those that should be very sorry to see the army in Flanders, which requires augmentation, be obliged to diminish itself on account of any intestine commotions; but at the same time, should the exigency of affairs require troops to defend our household gods, I should be very loath to trust their defence to any but those who are chiefly interested in their preservation....The garrison of Ostend is on its way to St. Guislain instead of Antwerp, where we were at first told they were to be conducted to; but the King would not ratify Mon^r de Lowendahl's¹ promise, so that they tricked us out of the terms agreed to². I heard last night that they had ordered FitzJames's Irish regiment of horse to escort them thither, from which it was feared bad effects might accrue; because the men already began to quarrel and fight with one another. Brigadier Mordaunt, who conducts the garrison, has represented to Marshal Saxe that he can't answer for consequences if that regiment continues with 'em, but I doubt whether they will give another instead of it³. The reason I suppose is that they imagine it will be easier to debauch our men from us, by sending people that speak their own language with 'em, than it would if a French regiment was sent on that duty; but they know very little of our fellows if they think that method is the way to make them desert; for the scandalous, low impertinences that they throw out against our men is the way to make 'em keep firmer to their colours. The present occasion of the Pretender is, I find, a great subject of discourse of their side, offering our men money to drink his health, saying they'll make him king and all the wretchedest ribaldry on that subject that its possible to utter. I must confess my rage is rose to that height against our insolent enemy, that there is nothing ever so extravagant to annoy him that I could not with pleasure embrace; and 'tis a vow I have made, and hope I shall have grace enough religiously to keep it, never to pardon a Frenchman that falls into my clutches. I could almost wish it was a war without quarter. You see I talk a little wildly about it but I can't help it. God send only that I may see 'em once in my life as low as I wish 'em, and I shall die contented. ...I hear the Monster of Prussia⁴ said at his table 'other day that he would give the empire *un chef de porcelaine*, meaning Saxony....

¹ Ulric Frédéric Woldemar, Comte de Lowendahl (1700-1755) had distinguished himself in the Austrian, Danish, Polish and Russian armies, finally entering the French service under Marshal Saxe. He commanded the reserve forces at Fontenoy and subsequently organised the siege and capture of Tournay, Ghent, Oudenarde, Ostend, Nieuport and Bergen-op-Zoom.

² See below, p. 441.

³ A French battalion was substituted. F. H. Skrine, *Fontenoy*, 263.

⁴ He thought very differently of the King of Prussia later.

As Lieutenant General of Bedfordshire, I expect very soon to hear of your military feats...Fear nothing, be of good heart and things will come right again. Adieu.

Your sincerely obliged and affectionate Brother,

J. Y.

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 93.]

Aug^t 25th, 1745.

DEAR JOE...

You must before this reaches you be acquainted with the surrender of Ostend and of the French chicanery about the capitulation¹. It must appear surprizing to you, as it does to everybody here, that a place furnished with a numerous English garrison, commanded by a governor high in the esteem of his profession², and open to be relieved with all manner of necessaries by sea, should make so short a defence and complete the ignominious catalogue of the towns taken this campaign, especially when everybody in it must be sensible of what importance it was to hold the French in play before it as long as possible. One cause assigned for the so early surrender of it is that the court of Brussels had actually forbid the great Dyke to be cut time enough before the town was invested, being terrified by the French threats to make terrible reprisals in Brabant....

We were in hopes the troops in Ostend would have been sent for to England. They would in our present situation have been a seasonable reinforcement, when we are threatened both with invasions from abroad and insurrections at home. You must have heard of our alarms about the Pretender's son....He comes over as Custos Regni under his father and he is to command in chief. The principal of his retinue, whom I have heard yet named, are the Marquis of Tullibardine and Geo. Kelly, who escaped out of the Tower³. The government have unquestionable intelligence of this from that part of the country, yet I hear it is fashionable in town not to believe a word of the matter, which is indeed partly owing to the not convincing them properly of it, besides the general disposition to throw contempt on every measure of the administration. This scheme must either be a very well concerted or a very

¹ The conditions of surrender included the departure of the garrison with all the honours of war and their escort to Austrian territory, but Marshal Saxe insisted on their being taken to Mons, thereby delaying their departure for England very considerably. F. H. Skrine, *Fontenoy*, 261 sqq.

² General the Comte de Chanclos.

³ A non-juring clergyman of the Church of England, formerly Atterbury's secretary, who had been convicted of treasonable conspiracy together with the Bishop in 1723 and imprisoned in the Tower, whence he escaped in 1736. He became chaplain to the second Duke of Ormonde and was now one of the Prince's companions and a leading spirit in the adventure.

absurd one, for to land with so small a force, unless the country is thoroughly prepared to rise, is downright madness ; and supposing there should be some of the clans bold enough to forget the year 1715, as Sir J. Cope will have between 3 or 4000 men under his command¹, any insurrection, if taken in time, may be soon checked. Tho' the French court have not yet publicly owned the encouraging the attempt, I doubt not they have privately fomented and will second it by embarkations from the coast of Flanders, as soon as they are at leisure. I think their progress in the Netherlands this campaign has been greater than any of old Lewis's, except that of 1672 ; and it will require one or two equal to the most successful of the D. of Marlborough's to regain what we have lost....Pray observe and tell me if my letters are looked into....His Majesty is hastening over with all convenient speed ; Admiral Vernon is in the Downs with a small squadron. They say our ships are but indifferently manned, as the merchants and privateers employ so many sailors...Everybody here sends you their love and best wishes...Yours in haste

P. Y.

[H. 102, f. 40; also ff. 34, 52 and H. 103, f. 20.]

On August 27, 1745, Lord Glenorchy writes to the Chancellor to explain the reasons which have prevented him from arming his men, and contributing troops to Sir John Cope. The Lord Advocate² had raised difficulties concerning its legality. The rebels numbered about 2000 men. On his first landing the Prince had been advised to go back but he declined, refused to keep the ship and declared that he had come to lay his bones among them.

Lord Chancellor to the Archbishop of York

[H. 250, f. 38.]

POWIS HOUSE, Aug. 31, 1745.

MY LORD,

I ought to have thanked your Grace long ago for your last kind letter ; but though you had the goodness to wish me a speedy deliverance from Chancery, I have been chained to that oar till within this fortnight ; and the daily attendance there, together with others of a more disagreeable kind, hindered me

¹ In the event they were not more than 2000. See below note, p. 461.

² Robert Craigie (1685-1760) was appointed Lord Advocate in 1742. He was a learned lawyer but was not a successful judge. His conduct on this occasion did not forfeit the Chancellor's esteem, for though he was turned out of office with Lord Tweeddale after the crisis of 1746, it was by the Chancellor's influence that he became Lord President in 1754. "Ere long it was discovered," writes John Ramsay, "that that great man had been mistaken in his choice," *Scotland and Scotsmen*, i. 114, where his character is sketched ; and Brunton and Haig's *Senators of the College of Justices*, 517 ; G. W. T. Omund, *The Lord Advocates of Scotland*, ii. 16, 17 and *Arniston Mem.* 129.

from acknowledging that favour. Since that time I have (with the interval only of two or three days at Wimpole) been confined to this place, attending upon my duty of the twentieth part of a Vice-King, and expecting the much-wished-for arrival of our Principal. In the meantime, we are threatened with having the disposition of the Kingdom wrested out of our hands, and in the North the storm is gathered. Archbishops of York have before now drawn the secular, as well as the spiritual sword, and I hope your Grace will stand between us and danger. That the Pretender's son is actually in the North-West Highlands of Scotland, and that he is joined by some of the clans of Macdonald and the Camerons, mostly papists, I take to be very certain. Infidelity has much prevailed here concerning this fact, though I think it is something altered; but I cannot help agreeing with your elder brother of Canterbury that in this case want of faith proceeds greatly from want of zeal, which in political faith is the worst source. There seems to be a certain indifference and deadness among many, and the spirit of the nation wants to be roused and animated to a right tone. Any degree of danger at home ought now to be vastly the more attended to from the state of things abroad. *That* I lament from my heart. I think I see the evil cause to which it is to be ascribed, and yet I know not whether to wish that by the public, it should be attributed to that cause¹. Where to find a remedy I know not. I see only the probability of one and am not sure that that will be taken. The success at Cape Breton is very considerable. A vast loss to France, and may be a very great advantage to this country. I wish we had more of these articles to balance the account....

His Majesty arrived [at Kensington] about two o'clock in perfect health, and really, I think, I never saw him look better in my life. He appears also to be in very good humour, and to value himself upon the haste he has made to us, when there was any apprehension of danger affecting this country. I have not time to add more except that His Majesty told me the election of an Emperor stood fixed for Monday next, and that I am ever

my dear Lord, most affectionately and faithfully yours

HARDWICKE.

Is it not time for the pulpits to sound the trumpet against popery and the Pretender²?

¹ The King's Hanoverian partialities.

² The archbishop's reply, H. 250, f. 40; printed *Eng. Hist. Rev.* xix. 532.

Lady Hardwicke to Col. the Hon. Joseph Yorke

[H. 6, f. 138.]

Sep. 3, [1745].

MY DEAR JO.

A letter from you makes me so happy for the time, I can't help telling you the pleasure it gives me, tho' it does not administer publick consolation ; neither can I send you much from hence, whilst things are as they are. However God be thanked for it ; the King is arrived in safety and looks extremely well. But I am not as yet able to tell you what they are doing at the other end of the Island, for the intelligence from thence is like the hearts of the inhabitants, not easily seen thro' by such plain folks as myself. The young Pretender is certainly there, and join'd by some of the clans, tho' I assure you it is not believed by many fools in town, and in the meantime his friends treat it as a ridiculous attempt, in hopes to lull the Government into a false security, whilst they say the French and Spanish fleets are joynd with a number of land forces ready to put on shore. You know me well enough to guess what I feel, especially living by myself as I have done this vacation, having sent your brothers and sisters to Wrest, thinking it better for them to be there, since your brother was so good to be troubled with them ; by which he has made them extreamly happy. What we want at present is some of our own troops ; for wee think you will fight for us, if you were here, and the nation does not like forreigners, especially at this time and on this occasion. God deliver us from all our foreign and domestick Enemies ; which have made me older by ten years at least than when you left England. My Lord is, I thank God for it, better in health than I could have expected in these hurrying times, especially as he has had no vacation in the country ; but now the King is come, he hopes towards the end of the week, nothing extraordinary preventing him, to go to Wrest. I am told some action is expected in Scotland, which gives me great uneasiness, for any bad success there at this time might be of bad consequence ; and what they call the Highlands is two thirds of Scotland, full of woods and mountains. Sir John Cope was very near the rebels when the last letters came from thence. I wish your old master¹ there for he knows the men and the country, having lived 11 or 12 years amongst them and they know his firmness and zeal for the present Royal Family....Thus far I had writ when your letter came to Charles ; I find you think as I doe, in short, foreign troops are odious to the nation ; wee all think they will not fight for us, and what is saving Brussels to England when we have left all the coast in the possession of the French, by which our own troops are prevented from coming to our assistance. For God's sake, some of you come to us, for I never saw the nation so defenceless, and to talk of

¹ General Wade. He was appointed commander-in-chief in Scotland in 1724 when he constructed roads and carried out the disarming of the Highlanders. See p. 255 n.

Europe and her dangers when England is on the brink of ruin is nonsense. The Scotch act, as they have ever done, a double part ; not a single man has join'd Sir John Cope ; I could tell you a great deal but what does it signify when wee have no power. I have not slept these two nights. If you can throw in your mite towards bringing over British troops doe. Let Dutch and Austrians exclaim as they will, necessity has no Law. I could talk for ever on the subject. Adieu, my hearty prayers are ever attendant on you, and that we may see better times is the sincere wish of your

most affectionate

M. H.

My Lord writ to you from Wimpole ten or twelve days agoe. He sends his love and blessing.

[H. 102, f. 45.]

[On September 7, 1745, the Chancellor acknowledges Lord Glenorchy's letter of August 27 and proceeds:] This was the first time I had ever heard that my Lord Advocate was of opinion that there was any difficulty in point of law as to arming the King's well-affected subjects to suppress a Rebellion, and I can't help being surprised that no method was ever proposed to deliver the government from that difficulty in this time of danger, nor the objection (so far as I remember) ever mentioned from that quarter. I would advise your Lordship to keep very carefully the Advocate's letter to you and beg you would send me a copy of it¹.

I thought it incumbent on me, as well out of duty to the King as in justice to your Lordship, to show your letter to his Majesty, which I did on Thursday morning in his closet. Upon my putting it in his hands, His Majesty was pleased to say, *My Lord Glenorchy is very well-intentioned but he can't influence or govern...his clan.* I then desired he would read what you had said for himself, whereupon he read the letter from beginning to end with great attention, and, if I could judge at all, it made an impression...I have now told your Lordship the substance of what has passed upon your letter, and must not conceal from you that hitherto it has been matter of general surprize and complaint here that when a Rebellion was actually begun, the well-affected clans did not take arms in defence of his Majesty and the Government, nor any of them join the King's army....By an express which arrived on Tuesday night I find that the expectation your Lordship had of some action on the 28th inst. was over and that Sir John Cope, instead of marching

¹ It is forwarded by Lord Glenorchy on September 29 (H. 102, f. 63).

towards the Rebels, had turned off towards Inverness....For this conduct everybody here is at a loss to account....I am in great pain and anxiety for your Lordship's situation, for I fear that before now the Rebels have infested your country. God preserve you and deliver you from this storm....

Lord Glenorchy to the Hon. Philip Yorke (his son-in-law)

[H. 103, f. 7.]

Sep. 7, 1745.

SIR...

I am now in a part of my father's estate lying in Argyllshire, which borders with that part of it called Breadalbane in Perthshire. The approach of the Rebels within 14 miles of Taymouth with their whole army, the Duke of Atholl's men assembling to join them on one side of me and the Duke of Perth (so called)¹ gathering his men on the other, made it very necessary to remove further from them, and the rather because I was informed of some people from them enquiring about me. I found it out of my power to do any service except keeping any men of my father's from going to them, they having sent many emissaries amongst them and invitations to their old friends, to which threats have been added. However, I flatter myself they will fail in all those endeavours. I am near enough to have an eye over all that passes in Breadalbane and am settling a method of raising a body of men in this part of the estate (which is equal to the other), in case this county rises in arms, and as we are here further from the enemy, we can have a better opportunity of preparing for them. Lady Glenorchy went some time ago with the child to Edinburgh and is set out from thence for London. The Rebels continue still at Blair, the seat of the Duke of Atholl, and in the country about it, waiting to be joined by others, and a good many are gone to them. They were not 2000 when they came here and many of them not fully armed. They give out that they wait for Sir John Cope's return from the North. I was greatly concerned when I heard of his intention to march northward, for if he had staid at Stirling, they must have separated before now for want of provisions, meal being excessively scarce of which they make their bread in the Highlands; besides, the people of that country dislike coming southward and fear dragoons more than double the number of foot. If they had ventured forward, Cope might have met them on ground

¹ James Drummond, 6th earl, grandson of the 4th earl, created duke by the Pretender (1713-1746) was educated at Douay as a Roman Catholic. In July 1745 an attempt was made to arrest him but he escaped, and immediately joined the Young Pretender, conducted the siege of Carlisle and afterwards of Stirling, and on March 29, 1746, surprised at Tain Lord Loudoun's camp, who was commanding for the government at Inverness. He commanded the left wing at Culloden and died exhausted on board the French ship "Bellone" on 13 May 1746.

where both his cannon and horse would have been of vast service ; whereas he was forced to leave the dragoons behind for want of forage on the road and marched into the country where they had vast advantages over him. I was with him 14 miles to the northward of Taymouth when he intended to march straight to Fort Augustus, but on finding a high hill over which he must pass¹, defended by the Highlanders, when he came within 10 mile of it, he turned off to Inverness, on which they passed behind him without any molestation and marched down to our country. I'm sure Sir John did it for the best, but I immediately saw (as well as many others) the mistake in leaving Stirling. However, 'tis now over. The Highlanders give out that they stay to meet him on his return, when they have received their reinforcements.

It is pretty remarkable that the arms were landed from another ship a considerable time before the Young Pretender came on the coast, and likewise that he himself landed above a fortnight before it was known. I'm surprised no intelligence of it was sent sooner to London. 'Tis certain that the Gentlemen, where he landed, advised him to go away again, there being no hopes of his success at present, which he refused. They then desired him to keep the ship which brought him ; this he also refused and said he was come on their promise of joining him, if he came in person, and that he was resolved to leave his bones in Britain, upon which they agreed to stand by him². All the Camerons from all parts of Scotland are gone to him and a part of the MacDonalds, which was a great disappointment, for he expected the whole. There are but two Camerons on my father's estate, both which have stayed at home, a thing not to be paralleled in Scotland at this time. I'm told the Young Pretender is a very tall, handsome man and extremely active which pleases the Highlanders mightily ; he is very familiar with them and lies down to sleep in the open air or in any hut. He talks mightily of Charles XII of Sweden and of Robert Bruce of Scotland ; I fear he is too like them in character. They give out that Cope was killed and the army routed, to encourage people to join them....Upon the whole, I see a scene of confusion in this country....I hear 5 regiments are coming from Holland to be followed by more ; I heartily wish them here....Tell Lady Grey I can't write to her now, nor do I know when I can ; this will serve you both at present....I am, dear Sir,

Yours GLENORCHY.

I have not leisure to think of foreign affairs, but I see them in a dismal light³.

¹ The Corryarick Pass.

² To MacDonald of Boisdale, who advised him to go home, he replied—"I am come home." A. Lang, *Hist. of Scotland*, iv. 458.

³ Further letters describing the progress of the rebellion, II. 102, ff. 47-121.

Lady Hardwicke to Col. the Hon. Joseph Yorke

[H. 6, f. 140.]

Septem. 10 [1745].

DEAR JOE,

I received your kind letter by yesterday's post for which I give you thanks, since it brought me an account of your health which God continue to you, and multiply every blessing on your head, and send us deliverance from all our Enemies, both foreign and domestick. I writ to you last Tuesday by which you may perceive every fear of 1743¹ is doubled, and with reason.... Why the letters sent from here tell you things are quieting here I know not, unless they all came from a wicked quarter, who have taken it in their heads to say there is nothing in the Rebellion and that it's doubtful whether the Pretender is in Scotland, tho' every post brings advice of his advancing forward and gathering strength, and of Sir John Cope's most wonderful management, which is every day less understood than ever. His conduct seems to be what I ever expected from him. But who can help it when such tools or fools are employ'd. As I said in my last, if you can throw in your mite to hasten British troops doe, for whatever your Master may be informed to the contrary, the affair is really serious, and you may say the friends to England were never so justly allarmed. I am sure I tell you truth, however that vile sycophant² and his crew may flatter their betters by disguising facts, and ridiculing honest men. I return your joy for the choice of an Emperour³, and wish some good may result to this once happy country by it. But German measures are too slow for such a country as ours, and how the Empress can think of pomp and coronations at such a time as this I can't imagine. Perhaps by this time you will wish I kept my speculations to myself, therefore I say no more, tho' I could fill a quire of paper. In the meantime the wind continues obstinately in the west, and not one favourable gale to send us troops from any country.... That I may have better news to send you is the constant hourly prayer

of your ever

affectionate and faithful

M. H.

Pray burn all my letters—especially this.

¹ *i.e.* February 1744 when an invasion was expected. See above, p. 327.

² Lord Granville.

³ Francis, Grand Duke of Tuscany, husband of Maria Theresa, elected emperor September 15, 1745, N.S.

Lord Chancellor to the Archbishop of York

[H. 250, f. 44.]

POWIS HOUSE, SEP. 12, 1745.

MY LORD...

His Majesty did a week ago yield so far to the advice of his faithful servants as to order ten regiments (*i.e.* 6000 men) of his British troops to be brought over from Flanders, with Sir John Ligonier at their head, for the defence of this country. I know this will be some consolation to your Grace, especially as the Lords Justices had sometime ago sent our transports to Williamstadt, and they are actually ready to bring them over, so that they may be here with the first fair wind. But you will be surprised when I tell you how this measure has been misrepresented;—that it is deserting our allies and giving up the common cause; and the ministry ought to be impeached for it. As if Great Britain was any otherwise essentially concerned in the common cause, than as the support of it tends to her own preservation; or the whole common cause would not be absolutely lost, if Great Britain (from whence it derives its strength and treasure) should become a prey to the enemy? And as to the ministry, I could draw a much better article of impeachment for leaving the country so unguarded, though even that they could not help.

The rebellion in Scotland proceeds. The numbers of the rebels increase, and the Young Pretender is in possession of Perth, and I wish they may amuse themselves there for some time. I believe, indeed, they are not all armed with fire arms and that (with the blessing of God) they might be easily subdued with regular troops; but without regular troops, I see not how. Some of the Dutch forces are sent to Leith, and we expect the rest in the River tonight or tomorrow morning, the wind being fair. You see how Cope has marched eastward to Inverness. I make no reflections on it, and he justifies himself and is now marching back again. Instead of being joined by the clans of Grant, Lord Reay and Lord Sutherland, he has been joined only by Sir Robert Munro's son and brother with 200 men, much to their honour! But, what is more surprizing, advice is received that Lord George Murray¹, the

¹ According to Sir Walter Scott he was “the soul of the undertaking,” and his military skill as commander-in-chief under the Prince was said to be the chief cause of the Prince’s early successes. It was by his advice, no doubt a wise one, that the rebel army made their retreat from Derby. He commanded at Falkirk. He disapproved of the choice of the field of battle at Culloden and advised a retreat to the Highland mountains but was overruled. He led the right wing at the battle and broke the Duke of Cumberland’s

Duke of Atholl's brother, who was in the rebellion of 1715 and pardoned, and has lived ever since with his brother, the Duke, and received favours from the Government, and also a brother of my Lord Dunmore's¹ have joined the rebels. What symptoms are these? And those, I mean of the King's friends, and some of his servants, who at first propagated the spirit of incredulity, do now, with the same views, represent the affair as dwindling; that the rebels are a despicable rabble, crushed with all the ease in the world. It is the duty of everybody, much more of those in employment, not to scatter terrors; but when there is a strange lethargy and deadness, and the spirit of the nation wants to be roused and animated, opiates should not be administered to them.

...The case of the Papists, as you state it², and I have heard of it before, in your great city, certainly calls for the interposition of the magistrate; and one would think that a few examples would keep such an enormity under. But the true difficulty as to the secular arm in England lies in this:—that the laws against papists, as they stand in the statute book, are so severe that they are the cause of their own nonexecution....[He suggests that the Archbishop should issue a letter to the clergy in his diocese.] One thing I have always observed:—that representing the Pretender as coming (as the truth is) under a dependance upon French support; I say, stating this point, together with Popery, in a strong light, has always the most popular effect.

I believe I have tired your Grace, and my time will not permit me to add more, except the sincerest assurances that I am ever my dear Lord, most faithfully and affectionately yours

...

HARDWICKE³.

Rev. Thomas Birch to the Hon. Philip Yorke

[II. 48, f. 321.]

LONDON, Sept. 14, 1745.

...Would you imagine that in this dangerous situation Lord Granville and his friends have taken no small pains to treat the line. He was greatly displeased with the Prince's abandonment of the cause after the defeat. He escaped abroad and died in Holland in 1760.

¹ See p. 548.

² The Archbishop had complained (II. 250, f. 40) of "the numbers, spirit and boldness of the Papists" at York.

³ For further correspondence in which the Archbishop informs the Chancellor of the measures taken by him for the defence of the County and receives the latter's congratulations, see the *Eng. Hist. Rev.* xix. pp. 535 sqq., and 719 sqq.; II. 250, ff. 47 sqq., also II. 240, f. 137.

affair of Scotland as a fiction or a mistake, and as of no other importance than to give a handle to their antagonists in the ministry to draw off our troops in Flanders, and by that means defeat the great schemes which might be executed on the Continent? A zealous friend of that Lord, who is a Lord himself and an acquaintance of ours, complained a few days ago to a friend of mine that his Majesty had been *surprized* into the regulation of sending over for the ten battalions; and I am assured that the King does not appear thoroughly sensible of his danger, though Lord Stair has not concealed his distrust of his own country, and General Wade is said to have desired a private audience to represent to his Majesty that the loss of his little army there might be fatal to himself and his kingdoms.

The most considerable merchants are exerting a noble spirit in defence of the government and the Bank continues quiet, but some persons have been silently disengaging themselves from the Funds of whom, as I am informed by a good authority, his Majesty has an account sent him every day, and I hope they will be some time or another marked and avoided as enemies to the public....

Hon. Philip Yorke to Colonel the Hon. Joseph Yorke

[H. 15, f. 97.]

Sept. 16th, 1745.

DEAR JO...

Those who told you the rebellion in Scotland was dwindling away were extremely ignorant of the present state of that country and dispositions of the highlands. We have not wanted those here, who with equal weakness and wickedness have insinuated the same thing; but you will easily judge by our sending for British troops that the administration begin to consider it a serious matter and so it will appear to you, I believe, when you have perused the following detail of its rise and progress which I have thrown together from the best informations I could procure.

The Young Pretender landed at a place called Arisage [Arisaig] in Lochaber, on or about the 7th of August last [July 25] out of a small frigate with about 70 or 80 followers, chiefly composed of Scotch and Irish gentlemen and officers.... His arrival was soon notified in that part of the country and a meeting of the gentlemen held, under pretence of a hunting match, to concert measures for rising in arms with him.... The standard was set up at Glenfynnen the 11th or 12th of August, [19th] and before the 18th, great numbers out of the Clans of the MacDonalds, Caimerons and Stuarts of Appin came into him with some of the D. of Gordon's who are papists, though their chief is a protestant. Their numbers were variously reported from 2500 to 3000 and upwards [about 2000]. He takes upon himself the style and title of Regent of these kingdoms under his father the Old Pretender and signs C. P. R., Carolus Princeps Regni; in his manifesto he promises to dissolve the

Union and take off the malt tax¹, to preserve liberty and property and the toleration and to call a free parliament, which, he says, has not been held in Great Britain for many years. He had the good fortune, at first setting out, to defeat 2 companies of Sinclair's Regiment who were, for the most part, made prisoners and 40 of them have since listed in his service². Captain Switenham [Swettenham], of General Guise's, fell likewise into his hands and received from him a passport to go to Bath for his health, on condition of never bearing arms against him and being forthcoming on the first summons. The Captain reports their numbers increased whilst he was there and that most of them were well armed. General Cope in the meantime drew the King's forces together at Stirling (they are said including garrisons to be in all 3000), and leaving the dragoons behind, from an apprehension he should not be able to find forage for them (tho' when they can act the Highlanders dread them double the number of foot), marched forwards with 12 or 1500 men pursuant to his instructions to attack the rebels before they could be gathered in any considerable body. But they were a little too alert for Sir John and had possessed themselves of a mountain called the Corryorick [Corryarick], which commands the road, and were so advantageously posted that he did not think fit to attack them but turned off towards Inverness, and has since coasted it along to Aberdeen from whence he intends to transport his army by sea to Leith. This step is censured by everybody as very irrational and unadvised; the right measure would have been to keep to the southward of them and prevent their advancing forwards or retire to defend the bridge at Stirling³. The rebels are marched into Perth with 1800 men, where they have proclaimed the Pretender and created new magistrates. They have been joined by more persons of distinction....It is a melancholy consideration that of all the well-affected Clans (as they have been called), only 200 of the Monro's have gone in to Sir John Cope who offered some of the highland lords arms, but was told they could not sufficiently depend upon their people. I believe this is the case of one⁴ who does not want zeal to serve the government, but in 1715 his clan took a wrong turn through the influence of his grandfather....The city of Edinburgh have at their own request received a warrant for raising a thousand men and the levies go on with pretty good success....We have, they say, a good fleet at sea....I have seen his [the Young Pretender's] declarations....They are

¹ This had been a special Scottish grievance and had led to a riot in Glasgow in 1725.

² A. Lang's *Hist. of Scotland*, iv. 461.

³ But Cromwell's strategy in the campaign in Scotland in 1651 was very similar. He left Leslie strongly entrenched near Stirling behind him and marched to Perth, leaving open to Charles the road to England but preventing the endless prolongation of the war in the Scottish Highlands. The error in the British strategy seems to have been the permitting the Prince to march back into the Highlands from Derby, instead of surrounding him there and making Derby a second Worcester.

⁴ Lord Glenorchy.

chiefly calculated for Scotland and I think would not invite a man of sense, however discontented with the present government, to declare for that abdicated family....There is a strange scene opening, I fear. God bless you.

Yours [etc.]

P. Y.

Lady Hardwicke to Col. the Hon. Joseph Yorke

[H. 6, f. 144.]

Sep. 17, 1745.

MY DEAR JO,

I received your very kind and affectionate letter last Sunday in the garden at Wrest, where my Lord and I arrived the night before, being the first time we could get there this year and where my Lord proposed staying the next day, but we were obliged to leave that place the next morning. Sad times indeed and, notwithstanding the comfort your good nature inclines you to give me, for which may God bless you, I am not to be comforted, seeing and knowing what I doe. Wee have a villain here that will ruin all¹, and so you'll find, and I fear we shall all, when 'tis too late². However, how disagreeable soever it may be to your Master to send us troops, I hope he will hasten them to our assistance; for I tell you truth, however it may be the fashion to disguise it, they are really quite necessary, and in British troops alone is our salvation, whatever those, that should know better, may say or, I suppose, may think to the contrary, influenced, as they are, by those whose flattery at this time are more than diabolical. You'll think perhaps my words are wondrous strange and so they are, but 43 [*i.e.* '44] is nothing to the present time. They say the Rebels are coming to England, thinking, I suppose, Scotland will fall of course, and where Sir John Cope and his handful of men are, I know not, safe I suppose. The wind has been easterly some days. I hope good from that quarter if the time is not neglected; if it be, the blame light on those that occasion it and call this Rebellion only a rabble got together, to which I answer, why are they suffered to increase and march on. Lady Glenorchy and her son are fled from Edinburgh and came to town whilst I was at Wrest....My Lord is still in the Highlands but his clan retain so much of the old levan, he dares not trust them, as it seems, and so they say all, and in reality none of the well-affected, as they are called, have joyned Sir John but only Monroe with about two hundred; and yet such is our infatuation, those that should feel it most are flattered into a belief it's nothing. God can restrain the madness of the people and deliver us, if he pleases; but I fear he will not work a miracle to save those that will not be

¹ Lord Granville.

² Lord Hardwicke called his wife "Cassandra," H. 250, f. 112.

saved. Adieu, my dear child, and believe I should not say all this to you but that I feel more than I tell you by this letter, and what you would feel too, if you knew as much as I doe....I am not mad I doe assure you.

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 80.]

Powis House, Sep. 19, 1745.

DEAR MR YORKE,

Parturiunt montes—but the mouse is not yet brought forth. It has vex'd me heartily to be so cruelly call'd away from the very short, but agreeable recess and pleasure which I began to feel at Wrest, to attend the labour, when the birth seems to be so far off. A certain Person feels many pangs and throes, but I see plainly his principal midwife¹ dares not undertake to deliver him, and He (notwithstanding his partiality towards him) dares not rely upon him. I have gone on thus far in metaphor, and indeed, I know not how to describe the scene upon paper in plain words. Imagine to yourself a situation, where a man wants to bring about what he knows is impracticable; won't enable the old servants in his Family to do his business, and yet is convinc'd that those, whom he is more inclin'd to, cannot carry it on; wishing on one side and embarrassing on the other; and there you'll have the picture of our *present Family*².

I am just come from the House of Lords where the Parliament was prorogued to the 17th day of October, just this day four weeks, and is then to sit to do business.

The continuance of a Rebellion in the kingdom makes that measure necessary, and on that foot only I think it must *then* be opened, unless some great change, either on the one side or the other, shall happen in the meantime. Things have been laid before the proper Party, and I apprehend a few days must determine what he will think fit to do of himself.

The Rebels go on; their numbers are very uncertainly reported, and they say many of them are ill arm'd. They cross'd the River Forth on Friday last, about six miles above Stirling, and it is supposed are marched to Glasgow to raise contributions upon that city. It is believed by many that their intention is to come into England on the side of Lancashire; a route which I wish they may not take. One of the Dutch battalions of the first embarkation

¹ Lord Granville.

² See above, p. 416.

sail'd for Leith on Thursday last, and the others arriv'd the night before last in the River, with Liëut. General Swartzenburg, a good solid Dutchman. We have prevailed that they should march directly for the North of England, to meet the Rebels wheresoever they may enter, and to be join'd by St George's regiment of Dragoons in the march. I was much of opinion for this measure, because I think that the very appearance of a body of 2400 men marching towards them, and Cope's corps following them behind, will strike terror, and give them a great check¹. Five of our great ships are arriv'd in the Western Ports from the Mediterranean; and tho' the ships want refitting, we have others ready to put the men into, which will add considerably to our naval strength. The ten British regiments, which are order'd over, were all to be at Willemstadt on Saturday last, and the transports were there ready, so that we may expect them soon....

I am, ever most affectionately your's

HARDWICKE.

Lord Granville has lately taken the turn to commend the Prussian Treaty².

Hon. Philip Yorke to Rev. Thomas Birch

[H. 48, f. 324.]

WREST, Sept. 19th, 1745.

...I am glad...the 6000 English are sent for..., though Lord Granville abuse the measure ever so much over his cups....I hear the same noble Earl talks in a very high style about the election of an Austrian emperor, that it will set all to rights, is more worth than what we have lost in Flanders and that France *a manqué le but principal de la guerre*, with many other such valiant paradoxes, which do very well over Claret but will not bear the test *impransi disquarentis*....I am greatly shocked at the ungrateful behaviour of Lord George Murray. Besides his being pardoned for the last Rebellion, the King had just given his son a commission in the new Highland regiment. The chiefs of clans too, had all experienced the clemency of his late Majesty. I am utterly against Western Assizes³, but I hope some useful examples will be made....

¹ The Dutch troops, however, were after all of no use. They had belonged to the garrisons of Tournai and Termonde, and by the terms of capitulation were precluded from fighting against France or Spain. Accordingly, on the arrival of French troops in Scotland in aid of the Jacobites, the Dutch were sent back to Holland. F. H. Skrine, *Fonteney*, 295.

² See below, p. 626.

³ *i.e.* of Judge Jeffreys.

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 82.]

POWIS HOUSE, SEP. 21ST, 1745.

[He informs his son of the commissions granted to various persons to raise regiments for the King, including the Duke of Bedford, to whom he advises his son to write immediately offering his support.] ...I advise you to subscribe generously and to be one of the first, and, if there is any occasion for immediate payments, draw upon me for the money....I am not sanguine enough to expect a vast deal of military service from these Commissions, but however they will raise a spirit and zeal for the Government, and convince foreign Powers, that this part of the Kingdom is not in that abominable way, in which Scotland has appear'd. We have two expresses from thence lately; the last of last night brings advice that the city of Edinburgh has opened its gate to the Pretender. He and his army took possession of it on Tuesday morning last, and he was proclaimed there and lodged in the Palace of Holyrood House¹. So he and my poor Lord Breadalbane are under the same roof, but I don't imagine that the good old man will suffer anything, but by the surprize and noise². All the money of the public and the banks was sent up to the Castle; but they had seized some arms. The letters of Thursday night represented them to be 5000 strong, but I was glad to find by a letter last night from my Lord Justice Clerk³ (on whom as to this I do most rely), that they entered Edinburgh no more than 2500 or at most 3000 men. But what a reproach that such a handful should be suffered to make such a progress! I will now turn the medal and show you the more pleasing side. Cope landed on Tuesday at Dunbar, which is not above 20 miles from Edinburgh and on the south side. He is join'd by the two regiments of Dragoons, and 'tis affirmed little short of 3000 men. The Dutch battalion sent to him is by this time got up with him. We expect every hour to hear of an action, and God grant it may be better conducted, and more successful than his march! The second embarkation of Dutch troops arriv'd all in the River yesterday, so we have now all the eight which are properly dispers'd. The wind continues as fair as it can blow, and we expect the 6000 British in the River

¹ See T. L. K. Oliphant, *The Jacobite Lairds of Gask*, 113. The Prince on arriving at the Palace was crowned with laurel.

² Lord Breadalbane was the grandfather of Lady Grey. For the account of his conversation with the Young Pretender, see p. 470.

³ Andrew Fletcher, Lord Milton (1692-1766), appointed Lord Justice Clerk in 1735.

today, for they were all embarked by Thursday night. God send them well here. I shall then believe we shall soon, by his blessing, crush this Insolence. But the conduct of some has been monstrous; for ten days past they have filled the Court and the Town that this affair was dwindling to nothing, and now they are in possession of the second capital of the Kingdom. I fear the magistrates and people there have been very faulty.

I have not time to add more, but all our most affectionate compliments to my Lady Marchioness, and assurances that I am ever

most affectionately Yours

HARDWICKE.

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 48, f. 325.]

LONDON, Sept. 21, 1745.

...Lord Granville's friends are very sanguine of his being able soon to recover his post....The whole party treat the affair of Scotland with contempt, diminish the numbers and strength of the rebels, spread reports this week of the Young Pretender's being returned to Brest and represent the recalling of the 10 battalions from Flanders as abandoning our allies and the cause of Europe....

Lieut. S. Robinson with the troops in England to Col. the Hon. Joseph Yorke with the army in Flanders

[H. 83, f. 39.]

LONDON, Sept. 24, 1745.

...I am this moment interrupted in my letter with a piece of news that affects me in the strongest manner, and the former part of my letter which has been *en badinant* ill suits with the serious truths which are to follow; for I hear that by three different expresses from the North, that Cope's army is entirely routed. We have nothing very circumstantial of the affair only that the foot behaved very well and the 2 regiments of dragoons ran away from the very beginning. We have lost all our cannon and nobody knows what is become of Cope.

It is imagined the Rebels will immediately push into Lancashire, where we have too much reason to think they will find a good Catholic country, ready to join them. This dirty Pretender, as you term him, has been treated hitherto with too much contempt by a great part of our ministers here. On my conscience, now their eyes are open, but they know not which way to look. Thanks be to Providence, the 10 battalions were landed yesterday and they are looked upon at present as our Palladium. Part of these with the Dutch, a regiment of horse and 2 of dragoons will, I believe, march immediately northwards, and till these put a stop to them, the

Rebels can now meet with no interruption in their march southward. They are at present about 7000 strong, but it is reasonable to expect that on their march they will soon double or treble their numbers; but what most embarrasses the ministry is an apprehension of a descent in the West, since we are quite ignorant where the Ferrol Squadron is gone. Probably, before you receive this, you will have orders to march home with the whole army; since most people now think that we have only an option either to preserve London or Brussels. Could I forget the occasion that brings my dear friend York so soon to this part of the world, I can't well say with what joy he would be received by his most faithful and affectionate friend, S. Robinson....When you have nothing to do, pray employ your time meritoriously, as I do, in damning, sinking, confounding the whole Scotch nation....

Hon. Charles Yorke to the Hon. Philip Yorke

[H. 12, f. 150.]

BELLBAR, Thursday afternoon, [Sept. 1745].

...Marshal Wade is ordered to march northward at the head of 8000 men to encounter the rebels. Gen^l Huske is gone to Newcastle. The master of the family (you know whose metaphor and what letter I allude to¹) is now greatly alarmed and has been coaxing (in the stile of the Borlasiad)² Sigillo Magno [Lord Chancellor], who does not think that a symptom of better times in respect of himself and the rest of the upper servants. God protect us from the impending ruin! the loss of another action must end in the loss of the king's crown and the desolation of this country. Are you to carry up any address from the Quarter Sessions of the county?...For my own part I rely more upon the 20,000 now which the government has now got together for our defence, than all the best penned addresses which can be drawn. The Gazettes about the time of the revolution are filled with very handsome ones to King James, and I have found amongst Lord Somers's papers a book of addresses from all the corporations in the kingdom to Richard Cromwell....

Lord Chancellor to the Duke of Newcastle

[N. 20, f. 209.]

POWIS HOUSE, Sept. 25th, 1745.

MY DEAR LORD,

I don't remember that anything has yet been said relating to a field train of artillery for this body of men which is to march northwards. The preparations for that will take up some time and a number of horses must be provided. I don't find any mention made in the Gazette of the number of Lords, Gentlemen, etc. who have desir'd commissions to raise regiments. Surely

¹ p. 454.

² The meaning of this is not apparent.

some authentic publication should be made of that, in order to give spirit to the people, and to do justice to the persons who have desir'd it.

I am,

ever yours

HARDWICKE.

I beg one word, if there is any further news.

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 48, f. 328.]

LONDON, Sept. 28, 1745.

DEAR SIR,

The events of last week have given such a wound to the reputation, as well as strength, of the nation as I am afraid we shall long feel the effects of. Scotland may now be considered as almost entirely lost to us for the present and the infidelity of that country, of which we have had so full conviction, will destroy all our confidence in it for the future....Lord Loudoun says in his letter that the dispositions of the King's troops in the action (if it deserves that name) at Preston Pans was a good one, the foot being placed in the centre with the artillery in front and flanked on both sides with the dragoons, and the plain where they were ranged very fit for the purpose; nor were they surprized, for they knew of the enemy's approach the evening before and lay under arms all night to receive them. But it is owned on all hands that neither horse nor foot did their duty in the least respect, but were seized in a few minutes with a panic and fled in the utmost confusion, except two or three of our Highlanders, who defended themselves in a fort which they had seized, till our own cannon was turned against them. Our officers did their duty and used their utmost endeavour to rally their men, but most of them fell unsupported. Our fugitives are collecting themselves at Berwick where they have been joined by 600 of the Dutch, who were stopped from going further by Lord Mark Ker, who sent out boats to inform them of our misfortune in Scotland. This reinforcement came very seasonably to complete the garrison of that important place....

The Papists in Ireland are likewise in great expectation of a descent in their favour; for when our East India fleet came to Galway about a fortnight ago they were saluted by *boufires* all along the coast, the people imagining them to be their friends, the French or Spaniards.

His Majesty is now at last awakened into a sense of his danger and, I hope, into a distrust of those who have taken such pains to amuse and deceive him. Mr Charles Erskine¹ showed a friend of

¹ Probably Charles Erskine, Lord Tinwald of the Scottish Bench (1680-1763), later Lord Justice Clerk, younger son of Sir Charles Erskine, Bart., of Alva.

mine a very strong and pathetic letter from his father to the Duke of Newcastle, representing the dangerous situation of affairs in Scotland, even before the defeat. The Duke showed it to the King upon whom it made a great impression; and that defeat thoroughly opened his eyes and induced him to consent to the recalling from Flanders twelve more regiments, six of foot and the rest of horse and dragoons. The Prince of Wales has desired the command of the army at home, but it is doubtful whether he will obtain it.

The Duke of Argyle complains loudly of the contempt shown of the advices which he sent of the first appearances of the commotions in Scotland, and of the offers he made of suppressing them by his own people....The Marquis of Tweeddale has laid himself open to the severest censures by the manner in which he has treated the Rebellion; for within this week past he spoke of it to two gentlemen of my acquaintance as a thing not more considerable than the desertion of the Highland regiment in England the summer before last¹....He is strongly threatened at the meeting of the parliament, and a friend of Mr Pitt tells me that gentleman is resolved to impeach him immediately. Lord Granville and his friends, who have been the echoes of the Marquis in this affair and publicly exclaimed against the recalling of our troops, begin now to change their note and preach up the necessity of unanimity for the saving of the nation.

The Bank has been crowded for some days by the timorous and ill-affected, and the officers of it have begun to pay in silver. But the association of the Merchants for the support of its credit will undoubtedly prevent any prejudice to it.

The Papists in town appear to be a number much more formidable than what I could have imagined, no less than 150,000. Their priests are such Proteus's that they elude the most diligent enquiries.

Since I wrote what is above, I read a letter of Sir Hugh Dalrymple² whose house lies about six miles from Preston Pans. It was written the day of the defeat there. He went the evening before to view the situation of the two armies which he avers to be the worst for the King's troops that could have been chosen, and that our infamous general, as he calls him, seems to have no regard in it but for his own escape by water, for which he had a boat ready while the foot were driven on to the sea-shore towards Edinburgh, where they must inevitably be killed, drowned or taken prisoners....

¹ The 43rd, later the 42nd Regiment, embodied 1740, displeased at being marched into England, deserted in London in May 1743 and endeavoured to make their way back to Scotland but were obliged to surrender, three suffering death and the rest being sent to the war in Flanders. J. H. Burton, *Hist. of Scotland*, viii. 375 sqq.

² Sir Hugh Dalrymple, second Bart. of North Berwick; M.P. for Haddington Burghs, d. 1790.

Lady Hardwicke to the Hon. Philip Yorke

[H. 3, f. 87.]

Sep. 28, 1745.

DEAR MR YORKE,

It was with pleasure I received your letter yesterday since it brought me an account that you and Lady Grey were in health, which God grant the continuance of, and an increase of every blessing, public and private. As to General Cope, he has finished, as he began, without courage, conduct or common-sense, and who can help it when such creatures are employed¹. The only use to be made of it is to look to forward; God grant we may receive some comfort, for never was it more wanted. The merchants have made a noble stand in regard to public credit, as you will find by the papers, and I hope stopp'd the run upon the Bank, which is a great thing at this juncture. The Archbishop of York has behaved with great spirit, temper and resolution in the meeting on Tuesday; and Mr Hill² says there was thirty thousand pound subscribed immediately for defence of the country, in the time General Oglethorpe came from London, who immediately set about forming some independent companies which was very agreeable to the gentlemen there. His Grace's speech to the assembly will be printed in the Gazette of this day, and his Majesty has ordered his hearty thanks to be returned him for the zeal and fidelity he has shown on this important occasion. In the meantime our common enemies had spread a report, that my Lord was turn'd out, and the Duke of Newcastle and his brother run away, some said to the Pretender, and others that Lestock had produced three letters from him forbidding him to fight³; as ridiculous and false as these reports may seem, they gain'd an universal run, and were propagated with uncommon address; people were told at the turnpikes as they pass'd thro' that London was in an uproar, and his Grace fled; nay, the mob gathered in crowds about his house and saw some of the shutters unopened, from whence they concluded he was gone, and when he went out they surrounded his chariot and look'd him in the face, and said, It is he, he is not gone. What is our condition when such monstrous lies are spread to increase the terrors of honest minds. Oh ! England what will become of thy Laws, Religion and Liberty, when such madness is gone out; merciful God send us help from Heaven and honest courageous soldiers to fight our battles. At

¹ These severe censures were not unnatural, for with the public success is the sole criterion of military merit, but according to military writers they were not deserved. No proper force was ready and no adequate measures had been taken for the defence of Scotland. At Prestonpans he met the enemy with an inferior force, and the commission, appointed to enquire into his conduct subsequently, absolved him entirely from all blame and praised his conduct. See Gen. Sir R. Cadell, *Sir J. Cope* (1898); also above, Lord Loudoun's testimony, p. 459 and cf. p. 452.

² John Hill, the Archbishop's chaplain, see II. 240, f. 107.

³ See p. 329.

last an order is gone for all the English troops to come to our assistance; would to God they were here this hour, and may no false Scot return with them. Mr Jefferies brought me a letter from poor, dear, honest Joe, and an account of his health; he says the man he shot in the battle, was one he had given quarter to, a French villain. I was yesterday at Bell-bar to see Lady Jekyll¹, who is in a miserable condition. God comfort and release her, or send her better, for indeed she is a melancholy object. It will be impossible, I think, now for my Lord to think of coming to Wrest again this summer; therefore he desires you will give five guineas amongst your servants, for the trouble I and mine have given them, which I will punctually repay on your coming to Town....

In the sadness of my thoughts, I had almost forgot to tell you that those vile villains that have made that sad affair nothing, now reap the reward, I mean a little part of it, being the detestation of every honest man that has heard of their infamous, absurd talking. God bless you and send us better times....

Hon. Charles Yorke to Col. the Hon. Joseph Yorke in Flanders

[H. 37, f. 45.]

BELLBAR, Monday evening, Sept. 30, 1745.

...Whatever way it ends, it will be of great moment to the Pretender and his cause, that a young man, not generally esteemed of considerable character or parts, should land in a corner of the Island, out of a little frigate with a few friends, and in six months time, not only have raised and disciplined an army of some strength, but have seized on the capital city of Scotland, defeated the King's forces in those parts, and by these means have gained quiet possession of one Kingdom and, what both his cause and person wanted, reputation. It is a great happiness for this government that there is now a large body of forces come over, and a proportion of 8 or 10,000 men is sent northward to be commanded by Marshal Wade. ...It is indeed a dreadful and amazing consideration to reflect that the work of so many wise and honest men, of so many parliaments of fifty seven years, that a fabric of so much art and cost as the Revolution and its train of consequences, should be in danger of being overwhelmed by the bursting of a cloud, which seemed, at first gathering, no bigger than a man's hand. If France and Spain should be invited, as unquestionably they are, by this rapid progress, to make some descent on England, in order to carry on the scheme which they have laid for our ruin, who knows what blood may be shed in the quarrel, what turn it may give to matters on the Continent? The Pretender himself, being successful, would come in [?not only] as a slave to those courts, but as a conqueror over us without terms of limitation, and hungry priests and courtiers would eat up the fat of the land. I forbear to explain in this letter to what a series

¹ Elizabeth, widow of Sir Joseph Jekyll, Master of the Rolls, sister of Lord Chancellor Somers and aunt of Lady Hardwicke. She died the next day.

of causes it has been owing that this evil has been suffered to gather so fast and spread so far, to what disunion and incredulity, to what ill-conduct and cowardice, to what intrigues and whispers, to what faction and treachery. Vast numbers of people in the City of London have met together within these few days, and signed a paper by which they declare that, for the support of public credit, they will receive bank notes in any payments made to them instead of money. The Lords and Gentlemen of Yorkshire have raised above £30,000 at a general meeting for the support of the government, are forming regiments of foot and horse and have signed a strong association. This great county taking the lead, it is hoped others will follow. The Archbishop of York has done himself immortal honour by his conduct in this matter....The thing was managed by him with wonderful spirit and address.

Lady Hardwicke to Col. the Hon. Joseph Yorke

[H. 6, f. 146.]

Oct. 1st O.S. 1745.

MY DEAREST JOE...

You have had long before this the scandalous melancholy end of Cope and his cowardly pack, which I was not surprised at but grieved for. Would to God we had the rest of the British troops at home, for indeed we want them all. Lord Charles Hay had, shall I call it by so mild a name as imprudence, to say in the Drawing-Room a few hours before the news of Cope's defeat came, that there was nothing necessary but to read the Proclamation. Such a scene of folly and perfidy was never acted in any nation under the Heavens. I could fill a quire of paper with particulars. In the meanwhile two Scotch bankers had the villany last week to occasion a run upon the Bank for the Coup d'Eclat; but the merchants, to their immortal honour, came to an immediate resolution to support the credit of it by declaring they would take bank bills in all payments, and that stopp'd it....God can deliver us, to whom I hourly address my weak but humble prayers. I long to see you, persuaded, as I am, that I should see an honest Englishman—but what can I not tell of the Scotch; every day produces new scenes of their perfidy. Lord Loudoun, however, is said to have behaved well—I wish I could name more....God bless you, my dear Child, and send a happy meeting which is wished for with impatience by your most affectionate

M. H.

Hasten over the British troops as much as ever you can; indeed we want them all, but keep your North Britain's where they are. I saw a letter from the Archbishop of York yesterday, in which he declares his resolution to die an English freeman and not live a French slave. May God prosper his undertakings....Your brother Yorke desires you will come over as soon as possible and teach him his exercise, for he is determined to fight. He is quite in earnest.

[On Oct. 23, 1745 [H. 240, ff. 135, 145, 152], the Chancellor wrote giving assurances of his support and protection to Sir Henry Bedingfeld, a Roman Catholic, in reply to a letter from the latter complaining of the suspicions of his neighbours on account of his religion, and of their intention to put the penal laws in force against him.]

Archbishop of York to (probably) the Hon. Philip Yorke

[H. 541, f. 27.]

BISHOPSTHORPE, Nov. 9, 1745.

DEAR SIR,

My thanks are extreamly due to you for your letter of the 5th of November, tho' it gave me an history that hurts my spirit and gives me fearful forebodings. We had very gallant professions of zeal and unanimity but *quid verba audiam cum facta non videam*. I am not melancholy, though serious, and think I see our ruin springing up in a place where I was in hopes our strength and stability was not to be shaken. The debate on Monday¹ terrifies me, and I am told the manner of conducting it was as extraordinary as the thing itself. Good God, at such a time as this to be starting questions of that perilous nature that, which way soever they are determined, shall be sure of giving a blow to the public interest. Who put the motion into B's head, I can't tell, but I am pretty sure every honest old officer in the King's service blames him for it. I hope so at least, I am sure there was not the least uneasiness of that sort stirring among them on the route to the North. Faction is certainly at the bottom of it, and C's² reasoning shews it. What can be imagined more villainous than, at this time, to suggest fears about the influence of our nobility, and throwing ugly and false reflections upon them for lending their name and credit to raise forces to save the kingdom, when in appearance nothing else could do it. It had been but a natural and just return of the House to have thanked them for their seasonable defence. But that I doubt is the sore place, and nothing grates these factious spirits so much as the probability that the Public may be once more saved by the virtue of honest people. I do assure you, it is the common judgment of this country that a check to Marshal Wade's army would hurt us less than this strange spirit now stirring at W[estminster]. I see some honest men in the minority whose conduct I can no otherwise account for but from a supine assurance that the Rebellion is in a measure quashed. This contempt and inattention is a frightful symptom. You see by the enclosed that these ruffians are marching to England and probably are, by this time,

¹ See p. 417.

² Sir John Cotton, the Jacobite Treasurer of the Chamber, is probably meant. He, together with Hume Campbell and Sir John Phillips, was the chief mover in this opposition. The person denoted by B—— remains unidentified.

as far as Carlisle; for their horse's hoofs are of flint and their wheels like a whirl-wind. It is most certain they are strong, well-disciplined, dauntless and united. Our army, I fear, harrassed, the D[utch] and S[wedes]¹ weak, as Oglethorp² tells me, and great apprehensions of their fidelity. If so, the best generals in the world may be foiled. For my own part, I am far from thinking that victory with us is infallible, but you may imagine I don't propagate this doctrine. I send you a copy of an Appeal to the People of England which comes to me, properly speaking, piping hot from Edinburgh. It is to be dispersed upon the Borders. You see the cloven foot appears and Rebellion puts on there its terrible countenance, and yet, I repeat it, my fears for my country do not come from the North. Be so good in your next as to inform me why the Speaker should say, as he certainly did, that he never saw such a day as Monday in the House and hoped he should never see such another. I am, dear sir, your most obliged and affectionate friend

T[HOMAS] E[BOR].

[On Nov. 11, 1745 [H. 103, f. 12] Lord Glenorchy describes the means used by the Rebels to make the people join them.] Many of them passed through this country [after the defeat of the Royal troops at Falkirk] with a great deal of plunder, which made the people's mouths water too much, especially at seeing their new shining arms, of which many of them had double sets. A murmuring began to run about as if it was hard that *others* might not be allowed to share in the spoils as well as their neighbours....

Lord Chancellor to the Duke of Newcastle

[N. 20, f. 316.]

POWIS HOUSE, Nov. 17th, 1745.

MY DEAR LORD,

Your Grace's letter gives me great concern. The surrender of the town of Carlisle so soon is a great misfortune, but, if the Castle can hold out eight days after it, that will have some good effect; tho', if the Rebels have numbers sufficient, I should apprehend they would hardly continue there to make a regular siege of the Castle, but might possibly turn that into something of

¹ The Hessians sent by Fred. I, King of Sweden, as Landgrave of Hesse-Cassel.

² James Edward Oglethorpe (1696-1785), the celebrated philanthropist, the originator of the inquiry into the state of the prisons in 1729, and the founder of the colony of Georgia which he successfully defended against the Spanish. At the outbreak of the Rebellion, he joined General Wade with the men whom he had himself raised, and accompanied the Duke of Cumberland in his pursuit of the Highlanders. Oglethorpe had in his young days been an adherent of the Atterbury faction, and the Duke of Cumberland, on his return to London in Dec. 1745, charged him with misconduct as having delayed in following up the enemy (see below, p. 485). He was entirely acquitted by court martial but henceforth became an opponent of the administration. M.P. for Haslemere 1722-1754.

a blockade, and march on with the main body of their army. The worst consequence I fear from it is the great spirit and Eclat it will give to the Rebels, and the encouragement it will afford to insurrections in England. It is surprizing that we hear nothing from Marshal Wade. Should not an express be sent to him to know what measures he intends to take and perhaps something may be suggested to him? Many people think he might march thro' Durham by Bernard Castle, and so over Stainmore, which is said to be a good road, by which artillery may pass, and that it is not much above 70 miles from Newcastle to Carlisle that way....

As to their want of officers to assist the militia, the Generals are much more able to advise than I; but can there be any objection against ordering some of the officers belonging to Sir John Ligonier's corps, to go post into Lancashire in order to give them their assistance? This would at least be some satisfaction to the people. I presume the most proper officers would be some of those who are most forward on their march.

As I shall not be able to be at Court tomorrow by reason of the sitting of the House of Lords, I must beg of your Grace to speak to the King tomorrow to appoint some day this week to receive the address of the Profession of the Law. The Judges have spoke to me upon it; it will be ready in three or four days¹....

My dearest Lord, ever yours,

HARDWICKE.

If orders are not yet sent for the Horse from Flanders, I think they should be sent immediately.

Hon. Charles Yorke to the Rev. William Warburton²

[II. 56, f. 33.]

Nov. 23, 1745.

...The zeal of the Kingdom and of all orders of men...upon this occasion is great and general; but I fear the Rebellion, though it be successfully extinguished, will leave wounds like those made by the Roman swords *quae ultra mortem patebant*....I have several times this summer between London and those parts to which I rambled, met numbers of soldiers, Dutch and English, on their march, in a warlike manner with their arms and baggage wagons, and fancied myself in Flanders. Into all the countries whither the Rebels advance the people fly before them with their families. In

¹ Also f. 342.

² See p. 213 n.

a word, the present confusion and terror everywhere are what we rarely feel in England ; but are nothing in comparison to the consequences depending upon future events and the wisdom of a good Providence which overrules them. Perhaps the happiness of an age may stand upon the hazard of an hour. This day the whole body of the Law in 250 coaches waited on the King with an address and association and were received with the same ceremony of his Majesty on the throne, the great officers of state round him and an answer in form, as an address of parliament is received. 'Tis pity the paper was not a little better penned ; surely if any body of men were furnished with peculiar topics for a performance of dignity and elegance upon this occasion, it was that of the Law. But this is not a time to be nice about words. We don't live on syllables nor are to be defended by them....

Lieut. S. Robinson¹ to Col. the Hon. Joseph Yorke

[H. 83, f. 41.]

NEWCASTLE, Nov. 24, 1745.

DEAR YORKE,

As we have lately attempted to march to Carlisle with an intention to attack the Rebels, I was in hopes ere this to have given you a good account of Scotch bonnets. Two unexpected circumstances put an end to the enterprise after we had made two marches as far as Hexham in our way to Carlisle. It was there we had certain information in what an infamous manner the town and castle had been surrendered to the Rebels, the saving of which was the chief motive of the Marshal's attempting that march, when visibly attended with many difficulties. The other was a severity of weather, sufficient to have put an end to the army itself as well as the scheme it was engaged in. It is impossible to give you a detail of our distress. *Curae leves loquuntur, ingentes stupent.* From the 14th, the day the cavalry came here to encamp, we have had every variety of bad weather ; at first the most intense frost with perpetual falls of snow which lasted during our march to Hexham and till our return to this place, in which time the poor men have suffered in every shape they possibly could ; for, either through the bad conduct of our commissary or the impossibility of his executing his contract in this terrible season, the men upon their coming to their ground very late at night, the first and second days' march, wanted both straw, firing, forage and meat. During this whole affair our men have behaved with the greatest patience and fortitude ; the common language was,—we know if it could have been prevented, it would. I wish I could say so much for our associates the Dutch. The dogs not only grumble, but plunder everywhere with a heavy hand. On our return to this town, the Marshal sent General Huske to the magistrates to desire, if possible, they could find cover for his men and which was very

¹ Aide-de-camp to Marshal Wade.

happily effected on the 22nd, since which time we have had a constant heavy rain. The free and independent electors of Scotland, for so I call the Rebels, have got as far as Kendal in Westmoreland; by the last express we have had, they were there yesterday and marched 25 miles in one day. This method of proceeding is quite military and good, but what we cannot, dare not, practise. They turn everybody out of their houses and cover their men, and the country supplies them with everything gratis through fear. We, who live only among our friends, are happy enough to get what we want for fair speeches and ready money. Let us fail in either of these articles, and we are immediately told,—Why? we should not fare worse if the Rebels were among us.—I begin now to think that Hawley¹ would be invaluable in our army. The Rebels have left their heavy baggage at Carlisle and 200 men to guard the Castle, and they have pointed all the cannon there upon the town. Their field artillery in comparison with ours goes post, for they seize on 100 fresh horses every night and then drive them at the head of the train, and as their horses grow tired, they put in fresh ones. Our train has suffered extremely this last march; near half our carriages are out of order and our horses almost all knocked up. I believe at last we must go upon their plan, if ever we intend to be up with them. On the 26th we are to move Southwards and encamp at Chester in the Street, and without the Rebels send us contrary orders, we shall march through Yorkshire as far as Wetherby and then bend Westward. We have the prospect of a long and bad march before us, and I am sorry to tell you our battalions are very thin and what we are going upon by no means promises their increase....with the utmost affection

your most faithful friend

S. R[OBINSON²]....

Earl of Chesterfield to the Lord Chancellor

[H. 240, f. 166.]

DUBLIN CASTLE, Nov. 28, 1745.

[After discussing certain legal appointments in Ireland], I have heard with great concern of the still unsettled state of both foreign and domestic affairs; and agree entirely with your Lordship that, till a strong and right connection is formed at home, nothing can be done abroad. But I say it with sorrow as to myself and with shame for other people, places only can (I see) form that connection. A certain degree of force *somewhere*³ can alone extort those places, and bring about the foreign measures necessary in consequence of the connection formed by those places. What those foreign measures will, or can, be God only knows, but from the present situation and disposition of all those powers who either are, or call

¹ Noted for his severity. See above, p. 426.

² Further letters, ff. 43, 45, 105.

³ The King.

themselves, our allies, as well as from our own circumstances, the continuation of the war seems to me impossible.

Your Lordship does me a great deal too much honour in thinking that my presence could be of any use; though I am sensible of the contrary, I am doubly proud of your Lordship's error, as it is the first I have ever known you entertain, and as it can therefore only proceed from your partiality to your Lordship's most obedient humble servant,

CHESTERFIELD.

Hon. Charles Yorke to Col. the Hon. Joseph Yorke¹ with the Duke of Cumberland in pursuit of the rebels

[H. 37, f. 47.]

Tuesday night, 10 o'clock [end of Nov. 1745].

DEAREST JOE,

...You say the terror which the Rebels carry with them spreads all over the country as it prevails here. The roads in Nottinghamshire within these three or four days, we are told, were crowded with gentlemen and ladies and all the considerable families of the country flying from it so that the inns could not contain them, and many were obliged to sit by the fireside all night for want of beds. The Duke and Duchess of Norfolk left Worsop manor and went to Bath. The strongest instance of this kind is told of one Mr Wilkinson, a man of great fortune, acquired in trade, who lives near Bloomsbury. He quitted Yorkshire upon the rebels passing by Sir J. Cope, when he marched to Inverness, and came up to London, where he has lived in such anxiety as to be deprived, not only of that reasonable share of tranquillity which a wise man maintains in danger, especially whilst it is at a distance, but of his very sleep. He then obtained a pass from the King into Holland and resolved to part from his family, which consists of two or three daughters. He gave them proper powers over his affairs, took his leave of them and set out for Harwich. When he came there, he staid about a fortnight or three weeks to listen after news, and when he found that the rebels advanced and the storm gathered, instead of dissipating, he put himself into the packet and is gone to the Hague to reside there till the troubles are over.

I do not comprehend the views and hopes of the Rebels. It does not appear to me that there is any sense or wisdom in their going into Wales....There is indeed greater meaning but more extravagance in their coming towards London, yet it is almost impossible they should ever reach it. If they knew anything of the strength drawn together at Lichfield, their true part had been to have retreated as fast as possible into Scotland and joined the new army of traitors now forming there with French assistance, the consequence of which would have been (the best for them)

¹ He had arrived with the Duke of Cumberland on Oct. 18.

protracting and delaying (which is death to us); and they might have done this with honour to themselves as well as policy in respect of their cause, because by advancing into the kingdom they have given their friends here an opportunity of showing themselves, if they had spirit for great enterprizes. Their friends have failed them; it is infatuation and not prudence to proceed in such a circumstance....

The other story is from Scotland, of a trait or two of the conversation between the Young Pretender and the old Earl of Breadalbane¹ in Holyrood House. When the Pretender came to see him the old man avoided ceremonies by saying that he could not stir from his chair, and endeavoured to shorten the conversation by complaining of his deafness. Amongst other things which passed between them the Earl said, "Sir, I believe I am the oldest peer in Scotland and the only one who remembers your royal grandfather in this palace." *Y. Pretender.* "Do you remember him, my Lord; pray how did you like him?" *E. of B.* "In some respects Sir, very well; in others I had great objections to him." *Y. Pretender.* "Perhaps you did not like his religion." *E. of B.* "No Sir, it did not suit with Britain." *Y. Pretender.* "That might be an objection to my grandfather in those days; but at present princes as well as private men have too much sense to suffer any impediments from religion in the pursuit of great views*."

Good success attend your Royal Master and yourself and fellow-soldiers. The hopes of the nation must rest upon your services.

In haste,

Yours affectionately,

CHAS. YORKE.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[II. 6, f. 148.]

LICHFIELD, Nov^r 30th, 1745.

MY LORD,

...The Rebels were yesterday at Preston and many people talk as if they would stay there some days. They sent a sergeant, a drummer, a woman and a lad forward to Manchester yesterday,

¹ John Campbell, second earl of Breadalbane (1662-1752), grandfather of Lady Grey; see p. 210 n.

* [Later he joined, or pretended to have joined, the Church of England: *Jacobite Lairds of Gask* by T. L. K. Oliphant, 322.] The Young Pretender's character is now well known. He had no great personal courage, but obstinacy enough. He certainly professed to have his religion to choose, and has said to Humphreys the painter, that his family had suffered too much from priests for him to have anything to do with them. He grew sottish, indolent, etc. after his escape from Scotland, is said to have been in London a few years after the rebellion, and the late King being told of it, forbade any notice to be taken of him. II. H. 250, f. 106.

and beat up for recruits at 5 guineas a man; some listed with 'em, and the money was paid immediately; I heard 'em called thirty, but I believe neither the men nor money will hold out long at that rate. It was said yesterday in the evening that Lord Elcho¹ was got into Manchester with 100 Horse and that the main body was to follow soon; people here (who are in their fears like the people elsewhere) are afraid they should move to Derby, and so be able to give us the slip and go to London before us, but I am inclined to think they will not find that so easy with the dispositions we are making.

Our whole Corps will be assembled in a few days between here and Stafford, and we shall in a day or two, I believe and hope, be moving forward; for I would leave 'em as little of the country as I possibly could and not permit their insolence to go much longer unpunished. The accounts of their numbers I daresay surprises your Lordship as it does me, for with such a handful of men to run on in this manner is most amazing, nor what they can expect from it themselves, I don't comprehend. Mr Bland² is forward at Darlaston Bridge and part of the Cavalry are still forwarder, so that in a short time, I believe, we shall be able to send you an account of my Lord Elcho's vanguard and the recruiters that they are insolent enough to send forward; but you won't, I believe, have anything to do with 'em in London, for few that I see incline at all to give or take quarter, so that they will be, I flatter myself, hack'd to pieces on the spot.

The Duke's coming down has a very good effect in the Country and makes everything go on in a much more expeditious manner; and to do 'em justice here, they are very alert in doing their best to serve the Government.

Marshal Wade (as to be sure your Lordship knows) march'd last Monday, so that we shall soon draw nearer one another, especially as his Cavalry is a day's march before him....

¹ David Wemyss, Lord Elcho, eldest son of the fifth earl of Wemyss; an active supporter of the Pretender. He fled to France after the Battle of Culloden and was attainted, and never pardoned on account of his supposed cruelties. See below, p. 532. He wrote the *Short account of the affairs of Scotland*, and died in 1787.

² Humphrey Bland, of Bland's Fort (c. 1686-1763), an experienced and able soldier and the author of the military text-book, *Treatise of Discipline* (1727). He served in 1715 and in the recent campaign abroad as Quarter-Master-General, distinguishing himself at Dettingen and Fontenoy, while in 1745 he held the rank of major-general. He was appointed Governor of Gibraltar in 1749, where he carried out some wise administrative reforms and cultivated a good understanding with the Spanish. In 1752 he was made Governor of Edinburgh Castle, *Dict. Nat. Biog.*; A. W. Campbell-Maclachlan, *Life of the Duke of Cumberland*, 154. See also p. 622 n.

Lord Chancellor to the Duke of Newcastle

[N. 20, f. 401.]

POWIS HOUSE, Dec. 1st, 1745.

MY DEAR LORD,

I observe by the Duke's letter, which your Grace did me the honour to send me this evening, that H.R.Highness is in some doubt whether the Rebels, having turn'd off from Warrington to Manchester, may take their route towards Chester, or not rather march to Buxton, and so to Derby, and avoid both the Duke's and Marshal Wade's armies and push directly for London. If this last is their scheme, if they are really no stronger than we have been inform'd, it is certainly a very extravagant and desperate one. But, however, I cannot help combining it with the paper Mr Ramsden shew'd me last night, which was seiz'd upon one of the boat's crew that had been on board the ship stranded at Montrose. If that was a march-route, as it has the appearance of it, it tends to point out such a march; for tho' some of the places deviate out of the high-road, yet that may possibly be reconciled from reasons of convenience of quarters, or finding friends, or other causes material to the march of a rebel army. I collect this from my memory, without having any copy of the paper, and therefore may possibly be mistaken. But should there be anything in it, I presume our reliance must be, for some time, on the troops about London, which I am glad are likely to be a little strengthened by the horse said to have arriv'd in the river. This consideration induces me to submit whether immediate orders ought not to be given for drawing these troops together at some proper place of rendezvous, so as to be properly posted to stop their progress; and in the meantime to procure some quiet to the minds of people here, and prevent that prodigious alarm and confusion which otherwise would distract this capital and affect all commerce and credit. The measure which the Duke has taken with the Duke of Devonshire, for spoiling the road by Buxton, is undoubtedly prudent and right; but will, I fear, have but little effect to stop the Highland foot; and, as there are no regular troops on that side, the Rebels may possibly soon be able to repair the damage (which can be done in so short a time), sufficiently for their light cannon to be drawn thro' those roads.

If there be anything in these suggestions, they will not have escaped your Grace; if there is not, you will pardon this trouble from him who is ever [etc.]

HARDWICKE.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 105.]

LICHFIELD, Dec. 1st, 1745, Sunday night.

DEAR BROTHER,

...The Duke will move to Stafford tomorrow; all the guards are come up and Cobham's dragoons will come in tomorrow, which is the last that are to come. The affair will, I think, now be soon decided. The Rebels are come to Manchester, though without their artillery, and in that position may choose which to attempt, the getting to Wales or London. The latter is what we must endeavour to prevent and I think may, as we shall be nearer Derby than they, which must be their road. Three accounts come in tonight make Marshal Wade at Halifax the 29th, that was Friday, but we have not yet had any accounts directly from him which makes me a little angry with my old master, considering how much depends upon it; if he should be there, the Rebels must move to us or him, or slip away to Wales; but I think they won't go without measuring swords with us; the only thing I grudge is the fatiguing the men to run after 'em. I never did wish to fight before, but now I own I do and most heartily; for then it would soon be over and with the blessing of God joined to our endeavours, I don't doubt, well over. Your famous regiment¹ makes (*entre nous*) a sad appearance but it is, thank God, out of the 1st line. I am glad the fate of the nation don't depend on the new raised, for they are very poor. Lord Halifax himself was rather ashamed of them; I have not seen any of the new Horse. Some people seem to think they will move along the Mercy [Mersey] (which by the by is fordable in 40 places) and get to Wales still; but I own I doubt it, and think that they have chose a good position at Manchester, though, as Marshal Wade advances, they must move somewhere; 24 hours will however clear that doubt.

I will write to my Lord when I can, though you may think business won't decrease as we approach the Rebels. I expect no rest, nor desire none, till this country is rid of these vermin.

I am ever, dear Brother,

...

yours affectionately,

J. Y.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 3, f. 91.]

STAFFORD, Decr 4th, 1745, Wednesday night.

MY LORD,

We have been in such a constant hurry ever since I had the honour to write to you from Lichfield, that I have not found a moment to take pen in hand before now, and short enough at present.

¹ Probably the regiment of militia raised by the Duke of Bedford in Bedfordshire, p. 456.

Notwithstanding I know your Lordship is thoroughly apprized of everything that passes in our army regularly by H.R.H.'s letters, yet I am willing to acquaint you with my ideas about the situation we are at present in.

I imagine by the measures that our leaders have taken till yesterday, they were equally afraid of the Rebels moving into Wales by Chester and to London by Derby; their motion to Manchester therefore disquieted us on both these accounts, but their succeeding motion towards Macclesfield, Congleton, etc. seem'd as if they intended to attack the head of our corps at that time at Congleton. I take it for granted it was on this last motion that the troops that march'd from Lichfield to this place on Monday, at eleven o'clock at night continued their march with H.R.H. from hence to Stone, at the same time that the corps advanced at Newcastle-under-Lyme, moved backwards to Stone, where the whole body (excepting the new regiments of foot) was encamped yesterday morning, and was in high expectation of coming to action with the Rebels towards noon; but about 9 o'clock we found the Rebels had taken the Leek road and were marching with all expedition to Ashborn; this has really put us into some bustle, for tho', had the troops not made so many forc'd marches, I think the best way would have been to have marched and attacked 'em yesterday, whilst they were moving to Leek, yet, as our people had been so extremely harrassed in advancing to sustain the head of the army (which certainly had been push'd on too far for the rear), it was not thought advisable to do anything more than to detach about half our body back to this place last night and to move backwards with the rest, as we have done this morning; and the body which was here last night is mov'd this morning towards Ousely Bridge, Ridgley and Lichfield.

By this confus'd account of our motions your Lordship will see that in endeavouring to keep 'em out of two places at once, we have run a risk of saving neither, or at least exposing the first, in my poor opinion, to be considered, the road to London by the rich town of Derby. As the Rebels are making all the haste they can to Derby, it will be necessary to be considered immediately what methods we may take to put ourselves directly in their way, and prevent their distressing more of the country, and hinder if possible the alarm and fright from seizing the rich citizens of London, and support the public credit. In order to do this, I imagine (tho' our Generals perhaps may differ with me), the only effectual way will be to detach all our cavalry, the foot guards, and all the Grenadiers on horseback, and make a forced march across the country towards the Trent and keep them in play, whilst the rest of the army moves after them; and this will be the better effected, I think, because General Hawley has joined us today, to whom I would give the command. I am sorry Marshal Wade has been so dilatory in his march westward; for had he not made 4 days halt at Richmond, he would have prevented all this by coming

behind 'em some time ago; and tho' he could not perhaps have reached 'em with his foot, yet his cavalry might have perpetually harrassed and have forc'd 'em into our jaws (which is what they don't relish), and why this has not been done I can't conceive.

It has been another misfortune attending us, that this is so little of a corn country that it has been impossible to encamp for want of straw, and covering for so many men is very hard to find, at least at any reasonable distance from one another, but as we cross the country, people here say there is great plenty.

I have the pleasure of telling your Lordship after all this, that our men bear their fatigues with great magnanimity and patience; nor have their spirits as yet fail'd 'em in the least, but they vow revenge to the cursed authors of it. What contributes to keep up their spirits is the presence of the Duke who is justly their darling; for they see he does whatever the meanest of them does and goes thro' as much fatigue. They have a just contempt of the Enemy they are running after and from the report of the country people, who see the Highlanders, that rather increases than diminishes. I hope our next accounts will be more satisfactory, as I daresay our Generals will take a good resolution now they see what the Rebels certainly mean, and as Marshal Wade approaches 'em every hour.

I beg ten thousand pardons for this shocking confus'd scrawl, but we have lay'n upon straw some nights and I am in a hurry to get a little clean, lest I should receive sudden orders to move from hence. I much fear you won't be able to read it, but if out of all this darkness you can get any light, I shall be very happy. I thank God I hold out as well as the best, and the cause is so good that I would do fifty times as much if possible to be of the least service. With my duty to Mama and love etc.

I have the honour to be your Lordship's ever obliged, dutiful son and servant

JOSEPH YORKE.

P.S. Since I wrote the above I find it is resolved to assemble immediately about Northampton for fear the gentry should give us the slip. The footguards will be at Northampton the 9th.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 3, f. 93.]

CAMP AT PACKINGTON, Dec^r 6th, 1745.

MY LORD,

My patience, as well as that, I believe, of the whole nation, is put to the stretch when one reflects that so many of his Majesty's forces should be in the field, divided into two armies, headed the one by a marshal and the other by the Blood Royal, and should remain so long without coming within reach of these brood of villains....I solemnly declare I would be content (if everybody thought as I do) to touch neither bit nor drop till we had

made an end of the affair which I think might be done in two or three days, but it would be attended with some alarming circumstances, I am afraid, to people in London.

Your Lordship knows, when I had the honour of writing to you last from Stafford, that it had been resolved to move immediately to Northampton to prevent, and get between, the Rebels, if they should continue their march for London which they seemed to threaten and gave out when they marched to Derby. Accordingly, the Duke of Richmond marched with 2 regiments of dragoons etc. to Lichfield and yesterday pursued his march to Coventry. The Duke himself with the foot guards and 2 battalions of foot marched to Lichfield. The rest of the troops were quartered at Birmingham, Sutton Co[ld]field, Abbots Bromley, Coleshill, etc. and 2 battalions remained at Stafford in order to move after us to Lichfield this morning. By this position your Lordship will see our troops were as much separated as they were before the assembling 'em between the 3rd and 4th at night, between Stone and Darlaston Bridge. Yesterday in the evening, finding the Rebels continued still at Derby, I observed our leaders were a little uneasy least the Rebels might by their intelligence be enabled to beat up some of our quarters, at too great distance, most of 'em, to support each other, and the enemy within 9 or 10 miles of some of the places. I own I was not at all suspicious they would attempt it, though within distance; because I think they don't mean to fight us, if they can avoid it. However, the fear that such a disgrace might befall us made the Generals determine to assemble the troops and encamp in one body near Coventry this night;...but I find that is in some measure altered this morning, for there are but 7 battalions encamped with us here on Meriden Common; all the horse and dragoons are at Coventry and some of the foot with the artillery.

The Rebels are still at Derby which, I fear, throws us out again, because they have still an opening left to get back to Nottingham through Yorkshire (which is what I am mostly afraid of) to their own country; and should we continue our route for Northampton, which we are at present nearer than them to, we expose Lichfield and this part of the country to their ravages, leave 'em openings either into Wales or Scotland, and do just worse than nothing, for we fatigue our men and distress the country.

Now, my Lord, in my humble opinion, the happiest thing for us would be to have them continue their march towards London, where you may assemble force enough to check twice their number, and we follow close at their heels and must infallibly undo 'em; or if you at the helm don't care to frighten, which I know such a march will do, your monied folks, there is nothing left for us to do, if we will fight 'em, but to send General Hawley to 'em with all the dragoons and a grenadier behind each and fix 'em to a point. This will distress 'em extremely, keep 'em always in a constant alarm and force 'em to fight us or throw down their arms. It is

the highest presumption in me to be talking in such a style, but I assure your Lordship the way we go on in at present is perdition, destroys our men and gives them [*i.e.* the Rebels] an opportunity of loading themselves with the tasted sweets and golden fields of plenty out of this country, to return in triumph to their barren lands and native country and encrease their force to return upon us with new supplies of strength and spirits.

Your Lordship knows better than I do what is become of Marshal Wade, or whether this halt of the Rebels at Derby will be of any service to him towards assisting us. In a common way it should, but what infatuation possesses us all I can't tell, but it vexes my soul to see these locusts spread over the face of the land unpunished....In expectation and hopes of better times I beg leave to subscribe myself your Lordship's most obliged, obedient, dutiful son and servant

JOSEPH YORKE.

...P.S. Since writing the above there is intelligence that these Infernals are getting back to Ashburn; they have levied £7000 at Derby besides the excise. I am afraid of their getting back. We shall be all at Coventry tomorrow. God knows what our Generals will do next. I wish they'd give me a regiment of Dragoons; I'd give 'em some account of the Rebels that would be satisfactory....

[Further letters from Lord Glenorchy [H. 102, ff. 47-121] notify the progress of the rebellion. On Dec. 6th he writes that he has 300 men ready to join the royal troops when they arrive.] As the common people in the Highlands have no idea of the laws relating to the militia, they look upon themselves as my Father's men, raised by his order; and the great readiness and cheerfulness with which they assembled gave me a handle for reproaching some of the people of this country, which has had such an effect that they declare they will not be outdone in duty (as they call it) and affection to this family by the other part of the estate, and that they will go with me wherever I please to lead them....

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 109.]

LONDON, Dec^r the 10th, 1745.

DEAR JO...

The motion of the Rebels to Derby threw us into no small panic here, lest they should give you the slip, as they had done Marshal Wade, and get to London by hasty marches. Our alarm was much increased by the news of a large embarkation at Dunkirk which was intended for the South and, in concert with the Young Pretender, to land near the capital. The same terror, but in a higher degree (as the strength to resist them was less), has spread itself through all parts of the kingdom, and to every great town, on every road, which it was possible for the Rebels to take in their way to London. I hope their late motions and those of the

Duke have put us out of all danger from these banditti....Something must be done and perhaps a little out of the common course, as the case is extraordinary, to crush this lingering calamity ; and in that light, what you mention of mounting foot behind horse and on country hacks seems a rational and I hope it is a practical scheme.... You will hear of the Law regiment which Col: Willes put himself at the head of ; the story is a very strange and ridiculous one but I have not time to tell it¹. The grave and eminent part of the profession are much scandalized at being so exposed....The Houses met this day and are adjourned till the 18th in order to keep the Fast²....Mr Pitt took occasion from something which dropped from Mr Pelham to declare his dislike to any measure which might be taken to bring over any foreign troops ; he thought nothing but inevitable necessity should force us into it....Previous to this debate I must tell you some absurd reflections were thrown out by T. Carew and Heathcote and Lord Strange³ on these voluntary subscriptions ; they were compared by the two former to the Benevolences in Charles the 1st's time, and that they opened a door to the infringement of the most sacred privilege of parliament, the power of granting money....There is a new rebel army forming in Scotland, amounting to 4000 already, which, unless you make an end of this shortly and prevent their junction, will, I doubt, keep us in play the whole winter....

Yours very affectionately

P. Y.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 150.]

MACCLESFIELD, Decr 11th, 1745.

MY LORD,

I was in great hopes when I had the honour of writing to your Lordship from Packington Park that, before I wrote again, we should have been up with the pitiful louzy knitty Rebels, but they never stop. Every man that can get a horse keeps him, and they ride all the way. We marched from Packington to Lichfield, from thence to Chedle and yesterday arrived at this place, thro' as difficult a country as ever cavalry went thro', and the snow froze on the ground made it almost impossible to keep our legs ; but what induced us to make such hasty strides after them was that, as

¹ Sir John Willes (1685-1761), Chief Justice of the Common Pleas, who was to have been Lord Granville's chancellor in February 1746—and who was also disappointed at not getting the Great Seal in 1737 and 1756. He now (December 8th) endeavoured to signalise himself by raising a regiment of lawyers to guard the royal family during the King's absence, but the scheme was much laughed at, and rejected by the King; cf. *Hist. MSS. Comm.*, Marquis of Lothian at Blickling, 154.

² The general fast was ordered for that day.

³ James Smith Stanley, eldest son of the 11th earl of Derby, M.P. for Lancashire, commonly, but erroneously, called Lord Strange.

they gave out they should halt at Manchester, we were in great hopes of coming up with their rear at least. We are now in their track, and pick up here and there a private man of 'em, who has lagg'd behind. The main body marched in great confusion yesterday from Manchester at 12 o'clock and have taken the Preston road, the thing I always apprehended. Marshal Wade must now deal with 'em again but I believe the Dutch are a great clog upon him.

Our thousand foot volunteers and part of our cavalry will be at Stockport today and we shall be with the whole body of our cavalry at Manchester tomorrow early; as, I believe, 200 dragoons are ordered there today, I pray to God we may still come up with their rear, for the cruelties they have committed are horrid, and shews what we are all to expect if they succeed.

The country people are enraged against 'em to such a degree that if the country gentlemen had had the least grain of spirit to have headed 'em, they would never have come so far, nor I believe never will again. The women all declare in this country that they will never marry for the future but in the army, for they are the only people that have shew'd their heads and offer'd to protect them in this time of distress. The country people rose yesterday to hinder the Rebels from passing the Mercy [Mersey] at Chedle Ford which obliged 'em to take another road and scramble over at, and above, Stockport. The Pretender had, I believe, some that were not his enemies as well as many friends, but this proceeding has made the King many friends. If I had a shilling for every blessing I get in these counties, I should have a very good estate. With the greatest expectation of coming up with the rear of these rascals

I have the honour [etc.]

JOSEPH YORKE.

My duty to Mama with all the Compliments expected. Excuse the hurry and absurdity of this scrawl, but we are very busy in our preparations to pursue.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[II. 6, f. 152.]

MACCLESFIELD, Dec^r 12th, 1745.

MY LORD,

Tho' I wrote, or rather scribbled, from this place yesterday, yet, as there is a messenger just going to London, I did not care to lose any opportunity of obeying your Lordship's commands.

The Rebels continue their retreat from this country, with the utmost expedition and not in such order and spirits as they came. They leave in all places they pass thro' great numbers of their arms, as well broad swords and targets as fire arms, a mark that

they are willing to return as little encumber'd as they can, and that the arms, particularly their firelocks, were not worth the carriage, and indeed, I never saw such miserable implements in my life, things that they have collected out of the halls of ancient families, but which are quite useless at present.

Your Lordship will know by this express the resolutions His Royal Highness and Marshal Wade have taken in consequence of this confused retreat of the Rebels. We shall be, I hope, tomorrow night as far advanced as Wigan, and as the Rebels proposed halting today at Preston, we shall soon, I fancy, make 'em sensible of our being in their neighbourhood, and as Marshal Wade has detached Major General Oglethorpe with part of his cavalry, we shall together make a formidable corps of horse. About 1700 foot will be advanced tomorrow to Manchester, to support us in case we stand in need of it; they are composed of Bligh's battalion from Chester, 500 volunteers of the foot guards and 500 volunteers of the other regiments. I can't help saying that the project pleases me and raises my spirits extremely, because I am of opinion and have always been so, that this was the only sensible way of distressing the Rebels, and had it sooner been fallen into, it would not have been the worse. However I have great hopes that it is not yet too late to execute this scheme with success, which will be of the utmost importance to us hereafter.

As Marshal Wade is on the return back, I flatter myself he will be able to post himself in such a manner with his army as to cut off all hopes of retreat from this band of vagabonds, who are ripe already for a mutiny against their chiefs, and are going home with heavy hearts, tho' light heels. The Ladies who attended the Pretender on their route backwards have never ceased weeping that their golden dreams were likely to vanish into thin air; the common cry of the men is that they are betrayed, and have brought their *Prince* far enough, and therefore will stay no longer.

If the good wishes of the poor country people and their prayers will avail anything, we have a great chance of succeeding; for never were people more hearty in any cause than they are in ours, and I don't doubt will be of infinite service to us in our expedition; for they already have had some smart skirmishes with the Rebels on their return these three days past, and no doubt will do more when they see themselves back'd by the King's troops.

Capt. Gansel with the Hussars are at Wigan tonight as well as Major General Oglethorpe.

I hope in God we shall soon see a happy end of these troubles to the glory of his Majesty's arms, and the utter extirpation of all his enemies. With my best wishes for your Lordship's health [etc.]

JOSEPH YORKE.

H.R.H., who passes thro' the room, orders me to make his compliments to your Lordship....

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 154.]

Powis House, Dec. 12th, 1745.

DEAR JOE,

I have been concerned that I have not been able to find time to thank you for your letters, which I have taken very kindly. I was glad your last was from so good quarters as my Lord Guernsey's¹, but don't wonder your patience is almost worn out. Sure I am, mine is nearly so under this severe trial. Our alarms in London, when the rebels slipt by you to Ashburn and Derby, were prodigious, everybody thinking of arming, drawing troops together, of which we have here certainly too few, and hast'ning up your army to us. The Duke certainly made wonderful expedition, and to that I presume it is in great measure owing, that the rebels returned back with precipitation. And now we are as full of fears that they will get back to Scotland unchastised, and join that growing army of rebels in the North. This morning early we were alarmed with an express from Seaford, that the French were actually landing in Pevensey Bay, in Sussex, which was soon spread over the whole town, and in a few hours after it was positively contradicted. But there is strong intelligence from Admiral Vernon of great preparations at Dunkirk ready to sail. This has occasioned the present messenger to his Royal Highness which brings you this letter. I believe the orders will be to strengthen Marshal Wade by a proper detachment, and march up the rest of your army towards London, in order to be *à portée* against an invasion, which is too reasonably apprehended. The opinion which prevails here is that your pursuit of the rebel army is vain. That even your advanced party of horse, dragoons and mounted foot, can never come up with them and that that service must be left to Marshal Wade to cross upon them, if he is not got down too low. Some people have also had their fears what might be the consequences if you should get too near them, out of reach of being supported by your infantry. These are things which I don't understand, and I daresay your leaders have deliberated and considered in the best manner; but it gives inexpressible vexation that they should thus run backwards and forwards at their pleasure, in spite of two considerable armies that are watching them. The great point is, we have two great dangers to guard

¹ Packington Park near Coventry.

against—a *rebellion* at home, an *invasion* from abroad. Our force is unfortunately hardly sufficient for both. The question is, how to apply and divide it in such a manner as may be most useful to both objects, for I think neither must be neglected. The orders which will come by this express will determine that point. The rest of the Cavalry from Flanders have been sent for some time, but the transports were unluckily detained on this side the water by contrary winds. Besides them, I think we must have more.

I rejoice that you are in such good health and spirits and pray God to continue them. Gaiety of spirits is an excellent thing; but as you know I love you, you will bear one word of advice to forbear levities in your letters on this subject. Pray lay me at H.R.Highness's feet with my humble duty and best wishes for his safety and success....May God bless you....Your most affectionate Father

...

HARDWICKE.

Lord Chancellor to Col. the Hon. Joseph Yorke

[II. 6, f. 156.]

COUNCIL CHAMBER, WHITEHALL,
Dec. 14th, 1745.

DEAR JOE,

I have just time to thank you for your letter which is an excellent one, and has been read to the Lords of the Cabinet, who much approved of it. This messenger brings the King's approbation of the Duke's conduct and leaves him at full liberty to continue his pursuit according to circumstances and his own judgment thereupon.

The alarms of an invasion intended from Dunkirk continue; but I hope we are prepared for them, and news is just now come that two of our privateers have taken three of their transports, who were going to Dunkirk, and brought them into Dover.

Lay me at His R. Highness's feet with my humble duty and thanks for his kind remembrance of me. He has my most sincere and warmest wishes for his success. My heart is in the cause, and I heartily pray he may have the glory of doing it....

Your most affectionate Father

HARDWICKE.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 157.]

PRESTON, Dec. 15th, 1745, Sunday.

MY LORD,

Whatever levities¹ I may have expressed in former letters to your Lordship on the subject of this but too serious affair, I am very heartily sorry for 'em, and I must take the liberty to say that the stopping short this day in our pursuit gives me ideas very different from light. Your Lordship ordered me to write as soon as I could, or otherwise my spirits are so depressed with our stop that I should not have chose to write to anyone; for I am really quite sick at my stomach and heart with the misfortune. The rebels have fled before us in the utmost consternation thus far, and I am convinced in my own mind 24 hours more would have decided this affair. Their horses are [so] fatigued that they can do no more, our men in high spirits, and the country all up ready to join us and assist us against the rebels, now they saw themselves supported by the King's troops. What the consequences of our returning may be, God only knows. The spirits of the soldiery and the poor country must be depressed. They may wait quietly at Carlisle for their reinforcements, refresh their people, put new life into 'em, ruin the bordering counties, and in a little while advance with fresh vigour and fury into the bowels of the land, in spite of all that Marshal Wade's army can do against 'em: whereas, had we pushed on our advantages, and put an end to this body, the French would never have returned into the island; or if they did, we should have had more than sufficient force to withstand 'em. This may appear foolish talk to people not upon the spot; but I am thoroughly convinced if your Lordship was here, you could not help seeing it in as strong a light as I do. We have lost our opportunity, and I dread only to think of the consequences.

There are great dissensions amongst the rebel chiefs, which goes almost to the point of fighting with one another, but this step of our's must revive 'em. For my own part, it is my duty and my most hearty inclination to lay down my life in the cause I am engaged in; all that concerns me is that I shan't have an opportunity of having my revenge on those destroyers of our peace. I beg your Lordship to forgive the foolish sallies of my warmth; I am cool to those who are not proper people to talk to in such a strain; but if you will consider how an honest man, who had his foot in the stirrup to mount and pursue these villains, must feel on this occasion, you will, I flatter myself, plead my excuse yourself....

I am, [etc.]

JOSEPH YORKE.

I beg my duty to Mama.

¹ See p. 482.

I have some suspicion that if the Duke sets out for London immediately, he will ride post all the way; I am determined to follow him as far as I am able.

We have taken a captain and a cadet, besides private men.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 159.]

PRESTON, Dec. 16th, 1745.

MY LORD,

Your Lordship's most obliging letter from the Council Chamber is just delivered me, and made some, tho' not entirely, amends for the terrible order of yesterday; for tho' I am in some fear the rebels, by our halt of yesterday, will get the start of us entirely, (except that they should happen to have a very good spy who should have given them intelligence of our resolutions, and in consideration of their violent fatigues they should think proper to repose themselves,) yet at all events we shall protect the country, strike a greater panic and, I hope, make them quite sick of the thing.

General Oglethorpe was at Lancaster yesterday, and has orders to push up to 'em as close as he can. The irregulars lay very close to the enemy last night, and I expect every hour to hear something new from that quarter. If Marshal Wade would but make a proper use of all this time, they would have a good chance of never seeing Scotland again.

I must beg pardon again for my last letter, but I was really distracted.

They sound to horse, so I have only just time to subscribe myself [etc.]

JOSEPH YORKE.

My humble duty to Mama.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 161.]

PENRITH, Dec^r 19th, 1745, Thursday.

MY LORD,

The last night was so busy a one that I had not time to write a line when H.R.H. dispatched the express; besides, not knowing what the morning might produce, I thought it needless to write till all was over.

Your Lordship knows the orders we received in the prosecution of this scheme, so that it seemed almost unlikely that we should come up with the Rebels before they reached their own country; however, the consequence of protecting the country they were to pass thro' on their return, and continuing the panic they had got amongst them was too great to be at all neglected. Accordingly, H.R.H. marched the very instant he received the order to Lancaster,

which the Rebels had left the morning before, the next day to Kendal where they had stayed till late of Thursday morning, imagining that we were stopped by order according to the Intelligence they received, and yesterday morning pursued his march for this place, where we heard the Rebels still were. General Oglethorpe, with the corps from Marshal Wade's army, which was advanced before us, had orders to cut off the retreat of the rear-guard, which was obliged to stop that night at Shap on account of the baggage and part of the artillery, which could not get thro' to this place on account of the badness of the roads, which lays all the way over barren mountains; but by what...accident...I know not...¹ the affair was neglected, and gave us more trouble as the sequel will shew. That rear-guard was commanded by Lord George Murray, and consisted of between six and seven hundred men. When we had passed the village of Shap, which is about 5 long miles from Penrith, intelligence was brought to the Duke, that our advanced party of 50 dragoons had come up with the rebel rear-guard, and kept 'em at bay, whilst the hussars and light troops of both sides were pickering² with one another, and that the main body of the Rebels were still at this place. On receipt of this news we hastened our march forward, and when we came to Lord Lonsdale's park wall, of Lowther Hall, we found that 150 of the Rebels had been there to search for horses and threatening to burn the house, who, upon our approach, retired to Clifton. When we were advanced within half a quarter of a mile of the little village of Clifton, we saw the Enemy were in possession of it, and intended to make a stand there. I can't say it gave me so much pleasure as it would have done in the morning, because it was then after 3 in the afternoon; we had a long night before us and but 120 foot up with us who were likewise in the rear of all; however something it was necessary to do, and that speedily and vigorously. The cavalry were therefore formed immediately on the rising ground above the village which is called Clifton Fell (or common) and about 500 dragoons ordered to dismount and attack the village. By this time it was dark or getting near it—(for had not the moon favoured us a little it would have been worse), which was what I dreaded, knowing how they had served Cope, and being entirely ignorant whether they intended to bring on a general affair there or only to amuse us with some of their chosen men whilst the rest made off for Carlisle. Our dragoons moved forward in two bodies to attack the village, which consisted of one street with poor houses and all enclosures about made with dry stone walls and thick hedges, which served them for parapets, and which they had lined very thick with infantry. On our men approaching, they gave a smart fire which put some of the right of Bland's into a little disorder, and exposed their officers to the fury of some of the most desperate, who,

¹ Words obliterated, probably expressions reflecting on the general's supposed Jacobitism. See above, p 465 n.

² Skirmishing.

leaping over the walls, fell upon them with their swords, and howling as they do, crying out, Murder 'em, no Quarter. Poor Phil Honeywood got 4 cuts upon his unlucky noddle but none dangerous; however, the rest of Bland's with Cobham's and Mark Kerr's, behaving like heroes, forced 'em back with loss, followed as close as order would permit 'em, and in about an hour's time dislodg'd 'em from the village, and we posted ourselves in it. In the meanwhile care was taken that they should not take us in flank, by the advantage of the stone walls which we had on each side of our cavalry. Oglethorpe's body was in the interim ordered another way round the village to cut off their retreat, if they were but a small body; but he came up only with a party of 'em who gave him one fire and then quitted their posts at Eimoth [Eamont] Bridge, about a mile out of the village, which he immediately took possession of.

As it was so late and the way very much enclosed, it was thought proper to lie out formed on that common all night, and to push patroles towards Penrith to take possession of it, in case the Rebels quitted it; for the country between Clifton and this is almost impracticable for cavalry, and our foot was not to be up till this day.

The Rebels with whom we had engaged, who consisted of 1000 men, fled with the utmost precipitation, throwing away their arms and targets, to their main body, who, as they went out, said they were betrayed, that all the army was come up and they should all be cut to pieces. We have taken 2 or 3 officers and about 70 or 80 private and volunteers; and as we have people out with the men of the country in pursuit of 'em, we expect more in every hour. They had but few men killed; for, as it was dark and they had the advantage of the walls and hedges and their dirty dress into the bargain, they could not be distinguished from the hedges but by the flash of their firelocks; whereas our men being tall and cross buff belts made them easier perceived. Our loss, I reckon, is between 20 and 30 killed and wounded and about 5 or 6 officers wounded, but not above one mortally.

We past a terrible wet night on the Common, with no provision and very little forage, so that refreshment to our men and horses will be very necessary. I don't imagine the Rebels will stop at Carlisle in the fright they seem to be in, so that we shall hardly, I fear, reach them again. If we do, this is a good beginning; if we don't, it is a great thing considering its consequences and what a risk we run in the night.

It is amazing how strong a post they so shamefully abandoned, for had they done their duty, 10,000 would not have found it very easy to have dislodged 1000 from it.

I don't know whether we march tomorrow or not, but I suppose your Lordship will know from the Duke.

Thank God! I escaped, as I have hitherto done, with the utmost good fortune for which I am always thankful. Excuse the

incorrectness of this account but my head is a little confused, and my spirits a good deal flustered with the hurry we have been in, and the agitation of mind for fear of accidents.

I have the honour, [etc.]

JOSEPH YORKE.

...Our arrival saved this town which they were going to burn. The Duke's running footman, foolishly straggling before us yesterday, was picked up by the Rebels and carried off in great triumph.

PENRITH, Friday morn: Decr 20th, 1745.

P.S. The Duke not despatching an express last night, my letter could not go from hence. The news this morning is that the waters are so swelled the Rebels cannot get beyond Carlisle, that they have taken all their cannon up into the Castle, and were greatly alarmed all the last night and had lined all the hedges for our reception. They had sent out parties to reconnoitre of the Scotch side, but were afraid they could not pass; I daresay they will if they can. If they can't, I believe they'll stare when they hear our Whitehaven 18 pounders speak to 'em. Our foot are up with us, and we shall have 1000 men more from Hexham of Marshal Wade's.

J. Y.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 166.]

From before Carlisle, Decr 24th, 1745.

MY LORD,

I gave your Lordship in my last an account of our skirmish at Clifton Moor, since which we have been so busy that I have not had an opportunity of writing. Your Lordship knows before this from H.R.H. the circumstances of our march here, and the retreat of the Rebels from this place, with only 3 pieces of cannon and very little baggage. However, they have forced a few desperate wretches (amongst which are all their English recruits) to stay in the town and castle of Carlisle, to keep us in play whilst the main body got clear off, imagining that our intent was to pursue them further than the Borders.

The garrison consists, I believe, of about 5 or 600 men, commanded by one Hamilton; and as we have yet been able to do nothing against them but investing the place that nothing may escape, they may be said to have held out. H.R.H. does not think fit to summon them, because he is for giving no quarter; and therefore chooses to wait patiently in a vile cantonment till everything is prepared to attack 'em. We have got up some of the cannon from Whitehaven and have procured some miners

from the collieries hereabouts so that I hope our battery will be ready to open tomorrow, and that a very few days will make us masters of the place.

We have many inconveniences to struggle with, the wetness of the season, which makes it difficult to raise the earth, the badness of the ways for conveying the artillery, the want of engineers, ammunition, etc. and yet, in spite of all these, I believe we shall soon put an end to it. The resistance the town is able to make now, shews how infamously it was surrendered on the Rebels' approach, who certainly would never have been able to take it at all if the people had done their duty. I am inclined to think the present garrison would be glad to capitulate on terms, but that is not thought advisable.

Our attacks, I imagine, will be three;—to undermine and blow up the great battery which commands the Stanwix Bank; a battery to the Citadel to draw the attention that way, and pitch barrels to burn the Irish gate; and then slaughter will do his work.

I shall not be sorry when it is over, for we are miserably off now, in worse villages than ever I almost saw in the mountains in Germany, but as the Duke is as ill off as other people, nobody can repine.

The garrison has fired at us ever since we came but without doing any execution. They did their best to hit H.R.H., who reconnoitred close to the place but without success; may the same good Providence always attend him for the sake of this country. I write from so dreary a hole that I am afraid my letter will be unintelligible, but if it serves to convey my duty to your Lordship with the Compliments of the Season I am satisfied.

I have the Honour [etc.]

JOSEPH YORKE....

[In a subsequent letter of December 28 (f. 168) he describes the progress of the siege. The last accounts of the enemy report them at Glasgow, about 4000 in number.]

Lord Chancellor to Col. the Hon. Joseph Yorke

[II. 6, f. 170.]

POWIS HOUSE, Decr. 28th, 1745.

DEAR JOE,

Since my last, I have four of your's to thank you for.... The occasion of my not writing has been the incessant hurry I have lived in ever since, from the business of my office at the conclusion of the seals mixed with perpetual attendances upon public affairs, which engrossed all my time except two days, which were worse employed by an indisposition; but that, I thank God, is gone off.

Yours of the 16th¹ gave me some uneasiness, but I have shown it nobody else. The Duke's of the same date gave a more general one to the King's servants, because it was apprehended that the affair of the halt or stop (as it is called) was, for want of a full explanation of all circumstances at such a distance, not taken quite in a right light. The true state of the matter is this. The report of the French landing in Pevensey Bay had no weight in it; for that was contradicted in three hours after it came; but the King's intelligence of an intended invasion, and of the preparations for it immediately to be put in execution, were at that time strong and undoubted from all quarters. The number of forces from 12000 to 15000 men; the general officers, and the particular corps assigned for that service, specified *nominativi*. The Duc de Richelieu was come down to Dunkirk with the Pretender's second son; their transports and barks were in readiness; we had but few ships in the Downs; and had it not been for the accidental dispersion and driving many of the enemy's transports and barks on shore near Calais, the enterprize had probably been executed before now. Near this capital, the heart, we had not then quite 6000 men, and many of those new raised and raw. These circumstances, joined together with the retreat of the Rebels out of England, made the King desirous to have his best troops in the place where the greatest danger appeared, and the most fatal stroke might be struck. It was His Majesty's own original opinion; and he was also desirous to have his son near his person in such an exigence—who is his Captain General, and upon whom he had the greatest reliance. But all these considerations put together did not prevail to order His R. Highness to come back till his own letter from Macclesfield (of the 11th inst. I think it was) came that evening, wherein it was said that he intended to leave a few troops in Manchester, and then all the rest of that army would be about Lichfield and Coventry. I don't remember the words of that letter, but from thence it was understood by everybody that His R.H. had given over his pursuit; and thereupon the King finally determined to send the orders for his return to London. The messenger, who carried those letters, set out about two o'clock on the Friday morning; on Saturday the 14th, in the forenoon, the Duke's letter of the 12th from Macclesfield arrived, which brought me yours of the same date. As by H.R.H.'s letter it appeared that, upon the circumstances then existing, he had

¹ See p. 483.

very prudently taken the resolution to continue his pursuit, another messenger was despatched by three in the afternoon, to leave him at full liberty, notwithstanding the former orders. If any time was lost by this, it was unlucky; but it could be only a very few hours; and if (as you say in yours of the 19th) the Rebels had intelligence of your halt and that you were returning back, and therefore they staid the longer at Kendal, your resuming your pursuit early on the Monday morning might be a surprize upon them, and then I should think no time was lost at all. Besides this, your Foot did not make any halt and they were not come up with you at Clifton, nor did come up till the 19th at Penrith. In what I now write I am not defending a particular opinion of my own; but am willing to let you know the state of the case in the light wherein it appears here, because I have been told that very strong letters are writ from your Army on this subject. No set of men in the world can possibly be more zealous and in earnest for suppressing the present Rebellion and for the support of his Majesty and his Family than the King's present servants, nor can, I am sure, be more sincerely attached and devoted to H.R.Highness's service and glory.

Everybody here is fully convinced that the Duke has conducted his pursuit with great judgment and magnanimity and much for the King's service and the preservation of the country, amidst a thousand hardships which he has undergone. The affair of Clifton succeeded extremely well, and it is wonderful, considering the disadvantage of numbers and the dark, our troops were able to do so much, especially as the Rebels had so strong a post. Your account contains the most particulars of any I have seen. I am sorry for our friend Col: Honeywood and hope he is in no danger. Give my compliments and best wishes to him.

I hope Carlisle will soon fall into the Duke's hands, but cannot but wish there had been a possibility of his being better provided for a siege. The gunners are, I hope, before now come up from Marshal Wade; and I am told there is a good engineer at Berwick who may be had.

It gives us the utmost concern to hear that the rebels aimed at the Duke, particularly when he reconnoitred. Personal considerations, I know, never weigh with him; but it is the ardent wish and entreaty of all his faithful servants that he would not expose his person unnecessarily. Carlisle is not an object worth such a hazard. That should be reserved for some greater and more glorious

attempt. A storm, too, may produce the loss of many brave men from a parcel of desperadoes; and if they would surrender at discretion or in some other way, not unworthy the King's honour, might it not be the most eligible as well as speediest end? Your mother and all your friends here rejoice in your escape hitherto, but pity the hardships you undergo. I pray God preserve you in health and safety, that we may have a happy meeting. The rigour and inclemency of the season make us uneasy on that head, but take the best care you can to avoid sickness.

The French preparations still continue on the coast; but it grows more uncertain whether intended for these parts or Scotland, tho' I cannot believe that they intend to send the Duc de Richelieu, a favourite of the Court, and so great a number of generals and troops to the latter....

Your most affectionate Father,

HARDWICKE.

Lord Chancellor to the Duke of Newcastle

[N. 20, f. 466.]

POWIS HOUSE, Dec^r 29th, 1745, at night.

MY DEAR LORD,

A thought has come into my head which possibly may be mere refinement, and yet may possibly deserve a little attention in future instances, if not in the present. Your Grace said the King had found today, in Bernstorff's¹ and Scheffer's² intercepted letters, strong intelligence of the designs of France to push the Invasion. In reflecting upon this, it occurr'd to me that some part of that intercepted correspondence was taken long ago on board the Dutch fishing boat, with the English mails. France therefore cannot be ignorant that the King has some method of coming at that correspondence, and copying the letters; and yet, in all this length of time we have not heard of any complaint made of it, either in the Empire or elsewhere, nor any clamour made of a breach of the public faith of the post as was apprehended. Is it not therefore possible that France may give it a turn of another kind viz. to make use of this correspondence as a channel of intelligence to amuse and mislead the King in some instances, by giving false or exaggerated accounts of things? Such schemes have been practised by politicians, and it is not to be believ'd

¹ Jean Hartwig Ernest, Count Bernstorff (1712-1772), the Danish Minister of State.

² Baron Carl Fredrik Scheffer, Swedish Minister at Paris.

but France would make some use of the discovery she must have made....

I have but one word more, and I wish I had thought of it sooner. Might it not be of some use to the Duke to send Durand¹ down to him? As he knows the inside of Carlisle perfectly well, it is possible he might give material lights for any attack from without.

I am [etc.]

HARDWICKE.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 177.] From before Carlisle, Decr 30th, 1745, Monday night.

MY LORD,

As his Royal Highness is just dispatching an express to London with an account of the surrender of the Rebels in Carlisle, I take the opportunity of laying myself at your Lordship's feet to congratulate you on this country's being once more free from such cursed visitors. I could have wished my Royal Master had had the honour of quite extinguishing them, but I must do him the justice to say that no other person in the Kingdom but himself could have smoothed so many difficulties, and have led the troops on with so much spirit even to this point; for in the way things were going on, we should not have seen so soon an end of it in England as we have; but as affairs for Scotland are settled, I hope an end will soon be put to it there, and then our hands and hearts will all be free for our old enemy France.

On the first discharge from our battery at break of day this morning, the Rebels hung out two white flags and beat the *Chamade* at the English gate, desiring to parley. On approach of some of our people at the advanced guard, they sent a message to H.R.H., desiring an exchange of hostages to capitulate, to which H.R.H. returned answer, "That he should make no exchange of hostages with Rebels, but he desired they would acquaint him what they meant in hanging out the White Flag"; to which they replied, "They desired to know what terms H.R.H. would grant them." He sent them word back, "He had no power to treat with them; they must surrender at discretion, or the batteries should open again in a quarter of an hour," but, after the day spent in parleying backwards and forwards, they surrendered at discretion, and our troops have taken possession of the town accordingly. H.R.H. has ordered 'em all to be disarmed immediately and made prisoners, and will go himself into the town tomorrow morning to regulate everything that may be wanting for the

¹ Colonel Durand, Governor of Carlisle, who had escaped on the capture of the town by the rebels.

future defence of the place before he sets out for London. I don't yet know the numbers, so am not able to send your Lordship an account of 'em yet.

Last night an Irish-French officer, that is with 'em, sent a letter by a servant out of the town desiring to know on what terms he was, since Dutch troops were employed in the siege¹, and signed himself as left by the French minister commandant of the French garrison there, and to be sent there. No answer was sent him last night and the messenger was made prisoner; but this morning H.R.H. in answering the Rebels, sent a written message to the French officer saying, "That there were no Dutch troops here but enough of the King's forces to chastise Rebels and all who dared to give them any assistance."

...The messenger waits, so must conclude this strange scrawl....
I have the honour [etc.]

JOSEPH YORKE.

My humble duty to Mama who, I suppose, is now as much scared with the Invasion as she was with the entry of the Rebels into England. If they come, with the blessing of God, I make no doubt we shall make 'em soon sick of this country. Love and Compliments of the New Year to my brothers, sisters and friends.

[He announces his arrival at Holyrood House in a letter dated Jan. 30, 1746 (f. 179).]

[H. 102, f. 72.]

[On Jan. 10th, 1746, Lord Glenorchy informs the Chancellor that he has raised nearly 400 men from Argyllshire, but that he is prevented from doing more by the return of the rebels from England. The enemy had lost several men by desertion,] and some of them said they deserted on hearing Lord Breadalbane's men were in arms; for neither their predecessors, nor they themselves, ever had, or ever would fight against them, and that many had taken the same resolution. This must appear very odd to your Lordship, but the connections and dependencies amongst the Highlanders are very strong and difficult to break, and indeed may be sometimes dangerous, tho' in this circumstance it happens to be otherwise. [The same month the rebels are again in possession of his estates and Lord Glenorchy himself once more obliged to retire to Inverary.]

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 181.]

CAMP OF FALKIRK, Feb. 1st, 1746, Saturday night.

MY LORD,

I thought this night to have wrote your Lordship an account of a victory, but these victorious Rebels would not stay to fight us, but are retired cross the Forth. By H.R.H.'s orders

¹ See note, p. 455 n.

I drew up an account to the Lord Justice Clerk¹, which is as full of particulars as I could make it, and to that I must beg leave to refer your Lordship, as a copy of it will go by this express to the D. of Newcastle.

I never saw the troops promise more than their appearance did this day and I am thoroughly convinced they will do as well as I wish 'em, but all the glory is reserved for our *Stator Reipublicae*; may Heaven preserve his life!

If I can find time I will be longer in my letters, but we have little rest, as your Lordship will easily believe, and indeed no beds to get it upon if we had time. I am clothed so as to make me look fat, with 2 flannel waistcoats, 2 pairs of woollen stockings, and a brandy bottle, by General Huske's orders, in my pocket for critical occasions. We shall march early for Stirling.

I have no more time than just to subscribe myself,

My duty to Mama and

your dutiful son,

love etc.

JOSEPH YORKE.

When Glengary² died, a 1000 McDonalds went off at once.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 183.]

STIRLING, Feb. 3^d, 1746.

MY LORD,

After the strange scraps of paper I have 'till this time troubled your Lordship with, 'tis more than proper I should send something that bears the face of a letter; but the function of secretary, which I unworthily filled till this night, (Sir Everard Fawkner³ being just arrived), took up my whole time, that I had hardly time to say I was well. However, as that employment is no more mine, I shall endeavour to be more exact in my correspondence for the future.

Nobody can say H.R.H. made more haste than good speed into this country; his presence was become absolutely necessary, as well from the whole people calling out for him, as from the new life he was able by his personal appearance to restore to his

¹ Andrew Fletcher, Lord Milton.

² Aeneas Macdonnell, second son of John Macdonnell of Glengarry and leader in the rebel army of the men of Glengarry, was accidentally killed the day after the battle of Falkirk by a soldier of the Clanranald regiment, whose death was demanded and obtained by the Macdonnells. A large desertion of the Macdonnells, however, took place. A. Lang, *Hist. of Scotland*, iv. 496; A. Mackenzie, *Hist. of the Macdonalds*, 353.

³ Sir Everard Fawkener (1684-1758), the friend of Voltaire, originally a London mercer, was sent ambassador to Constantinople in 1735 and knighted. He became subsequently secretary to the Duke of Cumberland, and at the end of the campaign in Flanders, joint Postmaster-General. He married in 1747 Harriet, natural daughter of General Charles Churchill, born in 1726. See Lord Lovat's joke at his expense below, p. 583.

Majesty's affairs in this Kingdom. The event has indeed fully proved what I say, for his very name carried such terror with it amongst the Rebels, that they declared they had rather meet any General the King had, with 20,000 men, than H.R.H. with as many hundreds. When we marched from Edinburgh nobody thought, I believe, that the relief of this important place would cost us so little trouble; for my own part, I had not the least doubt of our men, whose rage at themselves for their unaccountable behaviour at Falkirk is not easy to be described, tho' by the behaviour of the Rebels since, it is pretty evident the affair was not in their favour; and many sensible officers are of opinion, that had we stayed in our camp that night, the Rebels would never more have been heard of; but circumstances appear differently to different people. When we were at Lithgow I was fully persuaded the Rebels intended to stand another affair with us, and had prepared myself accordingly; and was never more surprised than to find they had fled from Falkirk, and on advancing further, that they had all got on the other side of the Firth. It is a great misfortune for us that we had not a bridge to pass the river that we might have marched this day, but the engineers flatter us that we may be able to get over tomorrow. I am sure no time is to be lost; for by all the accounts I have picked up, their manner since they crossed the river is very confused, saving themselves in the hills as fast as they can, in small parties of 20 and 30, and I can't find that above 13 or 1400 kept in a body to Perth. The Pretender's son himself was two miles further on the westward of Perth and a good deal out of order, and I can't say I wonder at it. I should hope that we were on the brink of putting an entire end to this bad affair, in my opinion, as amazingly as it began. If we move tomorrow, it will be to Dumblain, and the day after to Perth from whence we shall be able to form a judgment of the whole affair, but it is my firm belief that it is all over with 'em. The attempts they made on Stirling Castle were absurd; for it was absolutely out of their power to take it without the Castle wanted provisions, and General Blakeney¹ had just enough for ten days when we relieved him. The battery which they raised, and raised so many fears in London, was a bugbear; for it was so commanded that the garrison could pick out the men in the works, and our gunners fired so well that the battery, which opened its mouth at $\frac{1}{2}$ past five in the morning, never spoke again after ten; for the guns were battered so much that they were rendered entirely useless. The King owes the safety of this part of the Kingdom to the two castles of Edinburgh and this, and the Governors, in my opinion, should not be forgot.

¹ William Blakeney (1672-1761), a fine old soldier who had served through the Marlborough campaigns and in the Carthagena expedition in 1741. He was made Major-General and Lieutenant-Governor of Stirling Castle in 1744, where he did good service in keeping the rebels engaged. He afterwards made himself famous by his celebrated, though unsuccessful, defence of Minorca. He was then created K.B. and Lord Blakeney in the Irish Peerage.

I hardly dare say anything of the country for fear you should chide; but the answer I made to a noble Lord who ask'd me if I found Scotland so bad a country as I imagined, shall serve for my description, "Yes, my Lord, and infinitely worse."

...I am, [etc.]

JOSEPH YORKE.

My humble duty to Mama whose spirits, I hope, rise in proportion as her poor son goes further north.

CRIEF, Feb^r 5th, 1746.

P.S. As I imagined, it has turned out, that no express would go, and I should add a postscript before I should be able to dispatch my letter. We marched yesterday, my Lord, to Dumblain, this day hither and shall reach Perth tomorrow. The Rebels yesterday, by all I can learn, separated at Perth (that is the remaining body of 'em) and went North, East and West. The Pretender's son went, I believe, northward with the Clans, Lord J. Drummond towards Montrose with the remains of his French crew, and Lord George Murray to the East. They have told this Country they shall join again and with a reinforcement come down again, but I flatter myself we shall now be able to keep it under; the only difficulty will be subsistence, which is bare already, but when beyond Perth will be much worse, for they have destroyed all they could in their flight. However, tomorrow we shall be able to judge better and with greater certainty. Our dragoons are now at free quarters in Drummond Castle, just by this place, where the old Duchess of Perth is and will, I believe, be sent to Edinburgh Castle.

Give me leave to congratulate your Lordship on H.R.H.'s surprising success hitherto, which must have exceeded the most sanguine expectations. May all he attempts be always attended with as much glory to himself, and good to this country as this past has been! Every step we take here grows worse and worse, and ever since we left Stirling we have gone up hill, and I see nothing but snowy mountains above us. I shall from writing to your Lordship retire to my straw and there grumble till the drum wakes me.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 185.]

PERTH, Feb. 8th, 1746.

MY LORD,

When I wrote last, it was from Crief, intending to march to Perth the next morning, in pursuit of those villains who are the authors of so many calamities as are every day rising against all Europe. The want of several necessities has obliged us to stop here ever since, but I hope soon we shall be able to move forward

and extirpate the race if we are not stopt by lenity, as has been the case on former occasions; and since by the accounts in the Gazettes we don't seem likely to have a chance for making a figure in Flanders, I hope we may not be deprived of the power to revenge the nation on the beggarly wretches, who have drawn all these misfortunes upon us.

When the Rebels went from Crief, as your Lordship, I take it for granted, knows, they divided; and if you could believe the Jacobites, with an intention to join again with fresh supplies of strength: this they give out, as in the year 1715, in order to deter his Majesty's servants from putting vigorous measures in execution, thro' fear, as they say, that the Rebels, when they come down again (which they would absurdly and wickedly persuade us is as easy as to walk cross a room), should make reprisals on the well-affected people; and by those arguments would endeavour to save their rebellious relations; for everybody in this country on these occasions are nearly related to each other, and are glad to save one another for fresh occasions. But in talking seriously, what can be more absurd than to imagine that these people, who have fled before us in separate bodies, shall be able in a moment to reinforce themselves considerably, cut to pieces Lord Loudoun and the President¹, join and outwit the King's army and all his Generals, and give 'em the slip, if not destroy 'em; and yet, my Lord, this is the common language amongst the people here, who in their own country may be honest, but in any other I know what they would be called. For my own part, I think it a degree of cowardice below anyone that styles himself the King's faithful subject, to suggest a thought that there is any danger in irritating these people for fear of consequences, where they are backed with an army headed by a Prince of the Blood. All I would mean by this roundabout way of talking is that the thing must be put an end to so effectually now, that it will never be able to break out again; otherwise you may depend on having it again in a very short time.

Two detachments were made this day to Dunkeld and Minzie Castle in order to check the Rebels, if still collected on that side; and I don't doubt soon but we shall have shut 'em up within the Lochs, where it will be at least a summer's work to clear those parts of 'em and to destroy their *clannism*, but it must be gone thro' with.

The Rebels about these parts, when they went off, left their families in their houses, thinking by that to escape the first violence and rage of the pursuers out of tenderness for the Ladies, and give time for their friends elsewhere to do something in their favour, in order to save 'em. The pretended Duke of Perth² left at Drummond Castle his mother and sister; Mr Oliphant of Gast [Gask] left his wife and children, Lord Laird his family, Lord

¹ Duncan Forbes, Lord President of the Court of Sessions, was collaborating with Lord Loudoun in the North. See p. 421.

² p. 446 n.

Strathallan his mother, and several others in the same circumstances; and several who call themselves the King's friends have the modesty to plead in their behalf, when it is notorious that many of these women have been the causes of their sons, husbands and brothers joining the Pretender. Indeed I see and hear every hour of the day things that make me stark staring mad, and what I could hardly have expected, even from the worst of 'em.

The Pretender's son has, I am informed, left the Blair of Athole and is gone further North; and as he retires, numbers leave him, as one may easily conceive; for every step backwards to them must be destruction. They may make it linger out a little longer, but I think not much. Those that went towards Montrose seem, and not without reason, to be under great apprehensions of our coming after them. They pretend to be fortifying themselves there, I suppose like what they did here, which sounded well in a newspaper, but in fact were nothing at all. Admiral Byng is off that Coast, and without dark nights and blowing weather I don't see how they can get off.

I forgot to tell your Lordship of my visit to Lord Breadalbane¹, who lodged me whilst at Edinburgh, and was very obliging. I beg Lady Glenorchy will accept of my compliments and thanks for her civilities; all the return I can make is to use my poor endeavours to free her and hers from the villains who were the cause of my troubling her.

I am sorry accounts from Flanders are so little favourable, and on that score that the Hessians are arrived, because I hope we don't want 'em here and they will be wanted there.

I beg pardon for speaking so freely on the subject of the times, but my heart is full; and as I must restrain my tongue, it is absolutely necessary to unburthen my mind somewhere lest I burst; I thank God I am honest at present and villainy shocks me....

JOSEPH YORKE.

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 98.] POWIS HOUSE, *Sunday night, 12 o'clock, Feb. 8, 1746.*

DEAR MR YORKE,

A resolution was taken last night of great consequence, which I intended to have communicated to you this evening, but was hindered by a meeting being appointed by the Duke of Newcastle at my house, which I foresaw would last till near midnight. However, as I think it right you should know something of it before it is put in execution, I wish you would come to my room behind the Chancery tomorrow at eleven o'clock, and

¹ p. 470.

let some of my officers tell me when you are there, and I will come out of Court to say a few words to you....

Yours most affectionately

HARDWICKE*.

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 187.]

POWIS HOUSE, Feb. 11th, 1746.

DEAR JOE,...

I cannot let this post slip without acquainting you with the sincere joy of my heart upon H.R.H.'s surprizing success which is so much owing, under God, to his own magnanimity, vigour and conduct. The happy change it has wrought in the King's affairs in Scotland in so short a time is, I believe, not to be paralleled in history, and will redound to his eternal honour. Pray lay me at his feet with the most dutiful and cordial congratulations, and most ardent wishes that his progress may equal his beginnings and that he may have the glory of entirely extinguishing this Rebellion, which I look upon as in a manner already crush'd by his hand.

By this time I believe you have been, in a different way, surprized by an event which has happened here¹.

Yesterday my Lord Harrington first, and afterwards the Duke of Newcastle, resigned their offices into his Majesty's hands, and last night the King was pleased to deliver both their seals into the Earl of Granville's custody. This day Mr Pelham, the Duke of Bedford, Lord Gower and Lord Pembroke resigned their employments, and it is said that my Lord Bath is appointed first Commissioner of the Treasury. Tomorrow is the last day of the Term, and after that you will easily conclude what I am to do. Don't suspect that this is a hasty measure or proceeding, as some will perhaps tell you, from the King's having refused to make a certain gentleman² Secretary at War. That is a trifle in comparison of other things and was quite over and the King's pleasure entirely submitted to. But this measure has proceeded from other causes creating a necessity—a necessity arising from grounds essential to any administration who mean to serve with usefulness to the King and Public, and with honour and security to themselves.

* This Resolution was for the Ministry to resign their employments. It ended in a 3 days bustle and wonder. The resignations were stopped, before my Father's share was carried into execution. II.

¹ p. 426.

² Pitt.

No other motives could have prevailed for it; and those who have been found to submit to these motives will continue to support the King and his Family and the measures they have advised, with as much zeal and vigour out of place, as in. I cannot explain or say more in a letter. Assure His Royal Highness of my perpetual duty and devotion to his service, and that I shall ever be mindful of my obligations to him....

I am ever [etc.]

HARDWICKE.

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 100.] DEVONSHIRE HOUSE, Febr. 12, 1746. 7 at night.

DEAR MR YORKE,

The King sent a message this forenoon to Mr Pelham, by Mr Winnington¹, to let him know that his Majesty was determined to accept no more resignations, and intimating that he would have his old servants return back and accept their places. That he expected an answer tomorrow morning. I thought it necessary to acquaint you with this strange event. *Res magna agitur—sentio amplius deliberandum.* The King's honour—our own honour and security are to be consulted.

Affectionately yours

HARDWICKE.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 111.] PERTH, Febr. 13th, 1746.

[Gives an account of an expedition he was ordered to make towards the rebels at Blair Atholl and continues.] The melancholy part of all the story is that there is no trusting to any people in this whole country to give intelligence; for they all abuse each other to indifferent people but hold together in the national part of being Jacobites, or at least lukewarm, which I look upon in the same light exactly. The presbyterian ministers are the only people we can trust, and to give you an idea of one small part of the country, I mean the county of Athole, the minister, one Ferguson of Loggeritte, told me, that if you were to hang throughout all that county indiscriminately, you would not hang three people wrongfully. I am grieved to say it is mostly so through the whole country of the hills, and if it is not rooted out now, you'll have another insurrection in two years time....

¹ Thomas Winnington (1698–1746), M.P. for Worcester; P.C. and Paymaster-General. He was one of those on whom the King had relied to compose his new administration, being designed for the office of Chancellor of Exchequer, but he refused. He was an able man, who would, if he had lived, have attained high office.

Archbishop of York to the Lord Chancellor

[H. 250, f. 187.]

BISHOPTHORPE, Feb. 14, 1746.

MY LORD,

Tho', as your Lordship knows, I have for some time been aware of the event which is the subject of your Post Script, I could not help being struck with it beyond expression. I wish this unhappy nation is not drawing to that period of time when *Salus ipsa non potest servare*. What an intricacy there is in the affairs of the world, and what a strange contrast of things has appeared within a week in our meridian! One was thanking God for a gallant young Prince born, as it appeared, to deliver us; and at the instant, as it were, to check every sentiment of happiness, a man arises, *ab inferis*, as it might seem, to scourge and confound us. I am quite sure the present resignation of the King's and the nation's friends has been well weighed and nothing but necessity could have occasioned it. But how must every man lament the necessity at this juncture, when perhaps, if things continue but for a month in the hands of this adventurous man, it may produce an effect upon the public, both in our foreign and domestic affairs, that possibly half a century mayn't set right again. As to affairs abroad, I know nothing; but as I have my eyes and ears to hear and see around me, I am satisfied that the people of England were never so near an unanimity since the beginning of parties as at this juncture; but that prospect is darkened at once and we are going again to plunge into a sea of troubles and divisions. With regard to the opinion of the people, the Great Men who are resigning, will have the testimony of universal regret, no mean reward to an honest statesman; and they will feel the loss from their removal the more, as it will be made, I will speak plainly, to gratify the pride and ambition, God grant I never may have reason to add, intrigue and disloyalty, of a false man who is universally detested¹. Be that as it will, it is certainly a noble resolution to stand firm to the King, to comply with everything that is good and oppose warmly everything that tends to his and the public hurt....

I won't trouble your Lordship with public affairs, but as the assizes draw so near it behoves the Judge that comes the circuit to look to that matter of the jail. The prisoners die and the Recorder told me yesterday, when the turnkey opens the cells in the morning, the steam and stench is intolerable and scarce credible. The very walls are covered with lice in the room over which the Grand Jury sit. I am with a friendship and attachment that nothing can shake, My Lord, your most faithful

T. EBOR.

¹ Lord Granville.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 189.]

EDINBURGH, Feby 15th, 1746, Saturday night.

MY LORD,

At a time when your Lordship's thoughts must be so occupied, I should not have ventured to trouble you with my own impertinence. But it is in obedience to H.R.H.'s commands who, on receiving the unexpected and surprizing news, sent for me into his room, and ordered me to write to your Lordship this night in his name, to assure you of the regard and esteem he always has had, and shall have for you; how much concerned he is at the loss the nation sustains in the person of your Lordship, and that he shall always be happy to show your Lordship all the marks of his friendship that lie in his power, with several other expressions of civility and affection.

I shall be silent on the cause of my writing this letter, because I am afraid I should be apt to say more than is proper for me; I shall therefore, after imploring the Divine Assistance to save this sinking country, conclude with wishing your Lordship health and happiness, either in place or out, and assuring you that nothing can alter the inviolable attachment with which I have the honour to be,
Your Lordship's

most obliged, dutiful son and servant,

JOSEPH YORKE.

My humble duty to Mama. Love and compliments to all.

P.S. Your Lordship may be surprised to see a letter dated from hence, but H.R.H. came here to confer with the Prince of Hesse¹, and settle some other things, and returns to Perth tomorrow. The rebels have left Aberdeen, and seem more dispersed every day; but perhaps they may think now of turning back.

Hon. Charles Yorke to Col. the Hon. Joseph Yorke

[H. 37, f. 50.]

Febr. 15, 1746.

DEAR JOE...

The business of this last week in London has put Scotland and the Rebellion for a moment out of our heads, like a phantasma or an hideous dream. The story is in few words and yet in as many as are proper for a letter like this. You know what the situation of affairs behind the curtain of the Sanctuary (the Closet) has been for some time past. Sentiments of jealousy have been infused of the ministers; their counsels either totally disregarded and consequently defeated, or else, if given way to and approved, checked and thwarted in the execution, because they were theirs; measures of government openly espoused in the House of Commons by those who don't mean well to them which, whilst

¹ Prince of Hesse Philipsthal, in command of the force of Hessians, see p. 426.

espoused fairly, was proper and becoming ; but when the measures of the King's government could be separated from the points of his administration, as perhaps a scheme for raising a supply upon some particular fund, they would run the hazard of distressing and retarding for the sake of proposing another ; foreign ministers talked to and groundless whispers sent abroad by them to their several courts, derogating from the honour of the King's ministers and interrupting the thread and mutual confidence of negotiations ; the King told by flatterers that he might change the system of his administration, his people and parliament would support him in it, that his ministers were not sufficiently in odour of sanctity to make their cause a favourite one ; it might be done safely, consistently with his own honour and dignity. In the meanwhile, the ministers saw the necessity of forming and cementing a connection, begun some time since, that they might no longer depend for the carrying of questions in the House of Commons on persons whom they cannot trust. The thing drew every day to a crisis. Mr Pitt was proposed to be made Secretary at War and so far refused that it was given up ; and he said very dutifully that he could not presume to break open the closet door ; he would accept of what his Majesty should think fit for him, or would give his friends no further trouble if nothing was thought proper, and retire into the country for some time. Lord Bath went three or four times into the closet and represented against admitting Pitt into the King's service, how it would dishonour him at home and abroad ; offered to undertake the management of distressed affairs and a bankrupt treasury rather than see him submit to an act so injurious to the dignity of his crown and person. This was declaring so loudly against the ministers, and that to the King himself, that the ministers thought it the most respectful and becoming part they could take and the most advantageous to the King's service, if these remonstrances were listened to as founded on truth, to withdraw, and let those make the experiment who had answered for the success of it. Accordingly Lord H[arrington] and D. of N[ewcastle] resigned on Monday, when the King gave the Seals of both Secretaries to Lord Granville, one being designed for Lord Cholmondeley, not then in town. Next day Lord Pembroke¹, Duke of Bedford, Lord Gower, Mr Pelham, Lord Monson², for themselves, and three of them for their colleagues of the Boards of Treasury, Admiralty and Trade, resigned. Lord Chancellor was to have gone on Friday, as soon after the term should be over as possible, and many others were determined to give the same testimony of disapproving this rash step taken by the new advisers. Public credit sunk, a run one day on the Bank, the subscription for £2,500,000 withdrawn, which had been carried to Mr Pelham ; the places would have been supplied with difficulty and business stood still which, in such a crisis, was

¹ Henry Herbert, ninth Earl of Pembroke (1693–1751), Groom of the Stole.

² Sir John, first Baron Monson (1693–1748), First Commissioner of Trade and Plantations.

like the sun stopping in his course at noonday. The *Great Person* in this distress, his government dishonoured and the nakedness of it (which it has been the care of wise princes and ministers to conceal) exposed to public view, on Wednesday shut the door of the closet and would receive no more resignations. He seemed much affected, in the goodness of his heart, with the resolution of his old servants of the first quality and distinction about the court, to leave him. Then discerning that the new scheme could not be supported for a day, he sent for Mr Winnington (who had freely said he would partake in the dignity of this disgrace) and delivered a message to him to be carried to the Duke of Newcastle, Mr Pelham, etc. requiring them to return to their places and giving them time to consider of their answer till the next day. Mr Pelham had a long conference with him on Thursday evening, after the discourses amongst themselves upon the message, which passed with much complaining on one side, with dutiful remonstrance on the other side, and in conclusion Mr Pelham was obliged to take the Seals. Lord Chancellor had yesterday a long conference on the same points, representing that it was better to pursue the new plan and run all hazards in it than to separate the confidence of the King from the legal officers of the Crown; that His Majesty need not apprehend any other conduct from him and his friends than that which they had always pursued, of supporting his government in general and giving ease to it and of carrying on the war, restrained only by the principles and measures which they had so often laid down and His Majesty well knew; that for himself especially he would say that as long as he lived he would never enter into a formed opposition to any administration, that he would not undergo the slavery nor would he partake in the guilt of it. The answer was: "Perhaps you may think so, but I know the humour of this country." In conclusion, he sent in for those who had resigned and gave to each of them their commissions and marks of office. White staves and gold keys might have been had for asking till the old set was restored and now everything is *in statu quo*, and the mails of one day will be contradicted in all parts of Europe by the next. Lord Granville disowns any knowledge of the thing and the whole is laid upon Lord Bath. In a word, the appearance is so strange that the relation will hardly be believed a month hence. Great pity it is that such a conduct should have become necessary for the ministers, or such advice have been given way to by the Crown. The dignity of the latter is always impaired in proportion as high acts of government are attempted which cannot be supported. But the *Great Person* has been talked to as if he were King of France and not the King of a free country. The notion of the Constitution is this that ministers are accountable for every act of the King's government to the people. If that be so, they have a right to his confidence in preference to all others, else they are answerable for measures not their own. Here is the security both of the King and of his people. The next great policy

of the constitution is this, that whatever the King does, should seem to come *ex mero motu*, the result of his own wisdom and deliberate choice. This gives a grace to government in the eyes of the people, and here is the dignity of the monarchy. Now suppose the confidence to be separated from the ministers, they have no other part to take in justice to themselves than that of resigning, and the King himself is exposed to the odium of changing for worse measures and more suspected men, so that the security both of him and his people is gone. Again, suppose that *Great Person* reduced into circumstances of seeming constraint by any unhappy accident or advice and this [?thus] exposed of necessity to the people, the grace of his government and the dignity of the Crown is gone.— My dear Joe, I have said too much and not written a prudent letter (pray look at the seal and observe whether you think it may have been opened), but my mind was full and I could not help scribbling very fast about this matter and explaining it at large to you. I could add more anecdotes if I were near you....Don't shew this to anybody, which is only for your own view, and there are some circumstances of conversation recited, which you will not even mention.

In haste yours,

C.

Archbishop of York to the Lord Chancellor

[H. 250, f. 190.]

BISHOPTHORPE, Feb. 16, 1746.

MY LORD,

Tho' I troubled you last post, I cannot help congratulating your Lordship and your noble friends and the public upon the blessed turn of our affairs which are now like to go on, I hope, in the smooth old channel, as far as the perverseness of men will suffer them. The history of the week is a surprizing one; it was fortunate, however, that the distraction was of so short a duration. It lasted long enough to admit of a most extraordinary testimony from the people of their approbation of the King's old ministers, and yet ceased in good time to save the honour of our royal Master at home and abroad, and to prevent the causes of much hateful animosity. No thanks for this, however, to the contriver of the wild project. Surely, my Lord, there is something very criminal in it, that a bold and adventurous man shall dare to play thus with the honour and peace and interest of a great nation. If some private anecdotes are true, which have come to my hands, the affair looks more like a midnight project from the fumes of Burgundy than the digested scheme of a wise man. Certainly, to say the least of the projector, he did not take counsel of Archimedes and fix his foot firmly before he attempted to move the earth. But it is over, and if the public are disposed to forget it, let it never find room in the English annals....

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 191.]

PERTH, February 17th, 1746, Monday night.

MY LORD,

When I had the honour to write last to your Lordship, it was not in the same temper of mind I am in now, as you may easily imagine. The strange, unexpected event (to us) of the 10th struck a damp upon the spirits of all here, who wish well to the present government, that the as sudden reinstating the old ministry has not taken away. Melancholy and despair was seated on the countenances of almost everybody one met, that one could plainly see Jacobitism was triumphant by the sorrow of all honest Whigs. Give me leave, after congratulating the nation, by order of H. R. H. (with his particular compliments to you) on your Lordship's and the rest of the King's friends being replaced, with that honour and weight which such a glorious step deserves, to wish, in the zeal of my heart, that the author of all these disturbances, Lord Granville, may meet the fate he deserves, or for aught I see we may some time or other have the same confusion again. I daresay all honest men wish as I do. I wish they may have more power to promote it than I have.

His Royal Highness at breakfast this morning, after letting us chew upon our letters very solemnly for some time and asking me what you said, amazed us with the news he had received just then, that everything was to remain *in statu quo*, and the enemy was discomfited: and at dinner he made us all drink a bumper to our old friends, and no more changes. As soon as I could be brought to believe it, I despatched an express to Lord Glenorchy, to inform him of it at Taymouth. Knowing that the first news might have reached him and in all probability had from Edinburgh, and the last I was sure had not: and being willing to prevent any ill impressions which such a piece of news, at such a juncture in this country, might make, with the advice of my master I wrote the letter.

It is difficult to learn anything very certain of the Rebels at this distance because they invent a million of lies to amuse us with every day. All that I can find about 'em is that the farther they go back, the more they diminish, and that the Chiefs seem desponding and disagree with one another. What they talk of as yet is the design to attack Lord Loudoun; but that seems to me not very likely, because I don't believe they have any great stomach for fighting at present, and besides, Lord Loudoun and President [Forbes] are, in my opinion, an over match for any one of the bodies single, perhaps equal to the whole. Part of the troops are already marched that way, more will file off tomorrow and I imagine H.R.H. will be moving on Wednesday or Thursday at farthest. As we shall move by the sea-coast on account of subsistence and cover, it is proposed, I believe, to draw a sort of chain of posts to

prevent any parties from coming down into the Lowlands whilst we are in the Hills. I hope soon this unhappy affair will be quite over and the executioner succeed to us.

I have the honour [etc.]

JOSEPH YORKE.

...Wednesday February 20th. P.S....H.R.H. lies at Glames tomorrow night and the next at Montrose, from whence we shall proceed to Aberdeen, where at present a few of the Rebels are.... I wish this affair was quite ended....

J. Y.

A further letter of February 24th, 1746 [f. 196] gives later news of the progress of the army in the North.

Hon. Charles Yorke to the Hon. Philip Yorke

[H. 12, f. 153.]

Tuesday night, Feb. 18, 1746.

[Intimates that he had refrained from sending a letter which he had written, probably that of February 15th, for fear of its being opened.]

Since that was written the King has consented to some removals. Pitt is to be Vice Treasurer of Ireland in the room of Lord Torrington, and Lord Torrington is to be Captain of the Yeomen of the Guard in the room of Lord Berkeley of Stratton. The *Great Person* shews a countenance of more ease and seems satisfied that the expected confusion and change is now over. Lord G[ranville] says "Upon my soul I knew nothing of it—I was sitting quietly by my fireside reading in my study (some say *Demosthenes*); the King sends to me to take the Seals. I saw 'twould not do and was amazed at it. But like a dutiful subject of the crown I obeyed. I waited on the King. I took the Seals, went directly to my office, wrote a few letters of form and signed a pass. That's all the business I have done. But give me leave to tell you, my Lord, you and your friends have done a thing not known before in any country, deserting the King by troops in a dangerous crisis. What can this mean? I could raise a flame upon it but I won't. Family circumstances, which have lately detained me at home, shall now engross me. I will go home, into the country, to my books, to my fireside. For I love my fireside." So the thing is carried off with an air of burlesque magnificence.

You know the hand of your affectionate, without signing.
Pray look whether the seal has been opened.

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 193.]

POWIS HOUSE, Febr. 20th, 1746.

DEAR JOE,

Tho' I know you must have heard before now that the late apparition of a new ministry has vanished almost as soon as it appeared, yet I lay hold on this first opportunity to acknowledge your kind letter received this day....

I hinted in my last how essential the reasons were for the great event, which happen'd last week. They were then only referr'd to in general, and it is not proper even now to enter into particulars in a letter. They will be topics of conversation when we have the pleasure of meeting again. During the Term it was impossible for me to divest myself of my office. That ended on Wednesday the 12th, and on that day, early in the afternoon, the change back again was announced. That day and Thursday were spent in pourparlers, and on Friday, after the Levee, I had the honour of a long audience of His Majesty; immediately after which my Lord Granville went into the Closet, and redelivered the Seals of both offices to the King, after which the Lords, who had resigned, went in one after another and resumed their employments. Whatever had been the event, I must always have acknowledged in the most dutiful manner His Majesty's civility and goodness to me on this extraordinary occasion. Thus was the great scene at Court changed twice within the course of four days, an event which will appear to posterity more surprizing than anything that has happened, except that any man, or set of men, should assure a great King that they were able to carry on his affairs, and should undertake it, and in so few hours afterwards give themselves the *démenti* and throw up the game. But the public voice of the court, city and country united was too strong. For my part, I should have left the King's service with that dutiful submission and concern which becomes an old servant, highly honoured and obliged by his Master; but for my own particular, I was ready to say, *Jam mihi parta quies, omnisque in limine portus*. Now we are put to sea again, and I wish both we and the nation may both weather the storm.

The surrender of Brussels, which is confirmed by the post of this day, is a terrible blow! How the States will be able to supply the loss of such a number of their best troops is inconceivable. Some people wonder that so numerous a garrison¹ in a town, which

¹ 15,000.

takes up such a compass to be invested, could not find some opportunity to force their way thro' the Enemy.

...I pray God to crown His R. H.'s indefatigable labours with the happiest success, and deliver us from these troubles.

I am ever [etc.]

HARDWICKE.

P.S. Since writing what is above I have read over the capitulations of Brussels, of which there are two, one for the Dutch garrison, the other for the Austrians. I find the States understand their troops to be *ransomable*, and have already issued orders for their redemption, but I wish they don't find themselves mistaken. The articles seem to me very cautiously penned in all the passages relating to the destiny of the prisoners. The terms *rançon* and *rançonnés* seem to be studiously avoided, and those of *échange* and *échangés* as constantly used, and where they will find an exchange for them, God knows. The Austrian capitulation is stuffed with articles relating, not only to the government of the City of Brussels, but also of Brabant, so that it reads like an act of reddition of the whole province. As the 7th Article regards H.R.H., I send you the words : "Les domestiques, chevaux, bagages et effets de son Altesse Royale, le Duc de Cumberland, pourront se retirer où bon leur semblera, sans pouvoir être arrêtés ni visités sous quelque prétexte que ce puisse être, et on leur fournira les escortes, passeports, voitures ou chevaux nécessaires." Over against this article, in the margin, are the words : "Accordé en considération de son Altesse Royale, le Duc de Cumberland."

We are now told that the pompous intelligences we have had from time to time of the progress of incidents of the siege were all destitute of foundation ; there having neither been sally on the part of the besieged, nor attack on that of the besiegers ; except one on the 19th, which was not pushed very obstinately by them neither, upon some part of the hornwork before the Gate of Scarbeck. It seems now to be evident, upon the whole, that the unexpected duration of the siege has been more owing to Marshal Saxe's want of artillery and managing his men, than to any more than ordinary annoyance and obstruction he met with from this vast garrison.

What an age of lying are we fallen into !

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 198.]

ABERDEEN, March 9th, 1746, Sunday night.

MY LORD,...

I made use of the first opportunity to deliver your message to H. R. H. who received it with that goodness and affability peculiar to himself, and said it was impossible for him to forget the obligations he had to your Lordship, and he would take every opportunity to convince you of it.

It has been a great misfortune to the King's affairs in this country that we have not been able to move with more rapidity after the Rebels, because it would most likely have put an end to the affair before now; but the poverty of the country, which made it absolutely necessary to provide every kind of subsistence for the army before we could move from place to place, has delayed the putting an end to the Rebellion at the critical minute (the dispersion from Stirling) and still continues to retard our further progress; add to this that the snows have been so deep for some days past that it has rendered the ways very impracticable, but I flatter myself the snow will soon be all down and then we may expect milder weather. Notwithstanding the season, H.R.H. has not neglected, however, every opportunity of distressing the Rebels, parties having been continually sent into the Hills and the Strath-spey in order to curb them and to seize all arms, forage, oatmeal etc. that could be found; the Quarter Masters will go out tomorrow likewise to Inverary, Old Meldrum, and the places some miles beyond it, in order to provide for two brigades, the cavalry and the Highlanders, which will extend our quarters and be a means of securing that country, at the same time that by the appearance it will make to the Rebels, they will take it for granted that the whole corps is in motion, and may be a means of discovering their intentions, perhaps even tempt them to make some motions in consequence of it. They will march, I believe, on Tuesday. Major General Bland¹ will be forward with this detachment and, I believe, Lord Albemarle²; as soon as the weather will permit, and everything ready that is wanted, I take it for granted the whole will be in motion, and the sooner that happy moment comes the better, for delay in this case hurts all Europe.

From what I have formerly said, your Lordship will easily conceive I don't give too much credit to what informations the people of most parts of this country give in. To delay, to intimidate, to deceive are attempted every day. The Duke is whispered that he is in danger of assassination, that lenity is the best method to reclaim these *desperate* Highlanders, that 'tis a pity the flower of the nobility should be sacrificed to such a pack of cruel dogs; in

¹ See p. 471 n.

² William Anne Keppel, second Earl of Albemarle (1702-1754), General, and Colonel of the Coldstream Guards, wounded at Fontenoy, and later Ambassador at Paris.

short, my Lord, such a heap of villainy, nonsense, and cowardice is produced that one had need have 10,000 times my patience to hear it every day repeated. But thank God! we follow a leader who is too generous to give ear to such low insinuations as are hinted to him, and too honest to fear having his character blackened for doing his duty¹.

By the best information that reaches me of the Rebels, the main body of 'em still continue about Inverness. The Pretender is expected by this time at Gordon Castle. He is a good deal out of order and extremely weak. A detachment has been sent into Ross and Sutherland after Lord Loudoun, but he encreases and will be too strong for 'em². Another detachment has been sent with 4 French piquets to Fort Augustus; the old Barrack was taken but I did not hear that the Fort had yet submitted³. Fort William is what they have a view at next, but I hope they will find that harder of digestion than the other two, as I am told it is a much better place and His R. Highness has sent an officer there for whose behaviour I would answer with my head⁴. The French have been forced to do all at [Fort] Augustus, for they could not get the Highlanders near the works, no more than at Stirling; it is not to be conceived how the French hate 'em.

With all these detachments out, they would fain persuade us that they will dispute the passage of the Spey. Whether they imagine we are fools and will believe this or are really fools themselves and will attempt it, I can't tell; but to convince the world that there is a good deal of difference between regular and irregular troops on these occasions, I must confess I would fain flatter myself it is their intention. These people have no tents nor can they, by their own confession, encamp if they had. Firing cross a river would not suit with their constitutions, since they pretend to nothing further than a *coup de main*; and lastly, within the space of 10 miles there are upwards of 40 fords. These circumstances considered, besides many others, it does not seem probable to me they will be so civil as to play the ball thus into our hands. Their advanced parties still continue at Cullen, Lord Findlater's house, and are forcing people to rise everywhere with the fiery cross. I am not *au fait* of their numbers. I fancy they are about six thousand, but that is only my conjecture.

The Army is in good health, and I have great hopes will prove themselves in good spirits too. The Scotch Fusileers joined us today from Perth and Bligh's will be here from Leith by sea, the moment the wind will permit. Kingston's horse is come up in very good order, so that with the recover'd men our battalions grow stronger every day and of late, I think, very few fall sick.

¹ President Forbes, in particular, was urging mild measures. See below, p. 534.

² He was surprised and defeated at Dornoch and retreated to the Isle of Skye.

³ It surrendered.

⁴ Captain Scott of the 6th Royal Warwicks. It held out successfully.

I avoid lengthening my letter with lamenting the loss of Brussels, but every hour produces some new cause to curse the vile authors of all our misfortunes. I don't see that we shall quit this country time enough to go anywhere else, and very sorry I am for it, for this is miserable work.

I wrote last post to the Archbishop of York, who did me the honour to write me a very obliging letter some time ago....

I am afraid your Lordship will think I study the prolixity of the Presbyterians in this country, as they are deservedly fashionable....

JOSEPH YORKE.

The Duke of Gordon¹ came in to the Duke this afternoon, having made his escape from Gordon Castle, but was forced to leave the poor Duchess behind him who is within less than a fortnight of her time².

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 115.]

ABERDEEN, March 14th, 1746.

DEAR BROTHER...

The weather is so very bad that it won't allow of our encamping, especially as straw is very scarce, and cover, after we quit this, will not be very easily provided for us in a body;...we are forced therefore to remain almost inactive through dire necessity.... Some of the underlings have, I think, been sounding whether they could get their pardon upon coming off; but there is no listening to any hints of that sort. I flatter myself, as soon as we can move, that these villains will be reduced to reason on the points of our bayonets.

So soon as this is the case, it will be your duty in Parliament to make such effectual laws as may prevent (if possible) such daring attempts for the future. [The magistracy, disaffected and Jacobite, must be purged and the disarming of the Highlanders and Lowlanders this time effectually accomplished by keeping in Scotland a good body of troops for some time.] Besides what I have mentioned, there is another grievance (amongst a million) which demands some particular attention—I mean the Church of England meeting houses, which are deservedly styled the seminaries of Jacobitism. They are mostly served by non-juring parsons, who are generally nominal or titular bishops and many, I believe, Popish priests, whose business it is to ride about the country and sow seeds of sedition and rebellion in the minds of the people, too well inclined, I am afraid, from their very infancy, to suck in such principles. Through the means of these priests has been carried on for some years that destructive trade of enlisting men for the

¹ Cosmo George, third Duke of Gordon (c. 1720-1752). He married Catherine, daughter of William, second Earl of Aberdeen.

² See further ff. 202, 205.

French service, which has made a fund of Rebels to throw in amongst us on occasion, and has made the intercourse between France and this country so common, (and by means of the smuggling trade so agreeable), that they are not afraid, but on the contrary desirous, to see French men of war riding in their ports and French troops living upon 'em, a wish, I thought, anyone that lived in this island could never have harboured, however inclined they might be to the Pretender's cause. To prevent these non-juring parsons from being here, and at the same time permitting those of the persuasion of the Church of England to have divine service in our way, might not some method be fallen upon to have the clergy certified for, on being beneficed in this country, by some of the bishops; at all events I am sure non-jurors won't do.

I have been longer on this subject because since I have been in this town, I have had frequent occasions of talking on their affairs with the few honest people here, who in general lament the total neglect of all law that has been in this country for many years. 'Tis more than time a stop should be put to the intrigues of these cunning people, who mean nothing in finishing one rebellion but to begin another....If you should hear any stories about assassinations, cruelties, plunderings and other terrible things, trace 'em up to some Scotch man or woman for my satisfaction, because I am sure they have their rise from them¹....

J. Y.

The Pretender's son is, I believe, at Gordon Castle, but continues ill.

Lord Glenorchy to the Lord Chancellor

[H. 102, f. 95; H. 103, f. 29.]

PERTH, March 21, 1746.

...Colonel Yorke came here yesterday evening at 6 o'clock², having left Aberdeen at the same hour on Thursday [76 miles of bad road], which is extremely expeditious; and I had the pleasure of seeing him immediately after his arrival and again this morning as fresh as if he had not been on horseback, and I can say that I never heard a finer character both in the Duke's army and amongst all here, both British and foreigners, who know him....

¹ His brother answers April 17 (f. 120), "I have never vexed you with hearing, nor myself with committing to paper, all the lies which have been spread in relation to the Duke and his conduct. The best way is to despise such impotent malice and to shame both the knaves that invent and the fools that believe into silence, if one cannot into applause, by a steady perseverance in well-doing."

² He had been sent by the Duke to Perth, to the Prince of Hesse, to settle some disputes and to concert measures in case of the arrival there of the Rebels. See his letter to the Duke, H. 541, f. 94.

Archbishop of York to Col. the Hon. Joseph Yorke

[H. 83, f. 59.]

BISHOPTHORPE, March 29, 1746.

DEAR SIR,

Yours of the 7th of March came safe to hand....It was a great pleasure to me to receive it as an evidence of your being well, with a sound head and honest heart. I would to God these fellows would make a stand, that your gallant Leader might come to an action with them. Their proceedings are to us at a distance incomprehensible; that after so shameful a flight they should be in a condition in one part of the country to keep an army in awe, which consists of 2500 men, in another to attack forts and castles, and have in a third a main body making show of braving a great army of many thousand regular and well-appointed men. I know of but one way of accounting for this, which is that the country is with them; and if so, and the Scottish nation will again divide from us and make a national quarrel of it, we must look to ourselves as well as we can; and I hope after a thousand vain attempts, 1746 is not the era of superiority to the Scots over the English nation....Pray God preserve you and account me ever with very sincere affection,

Dear Sir,

Your faithful friend,

THO: EBOR.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 207.]

ABERDEEN, March 31st, 1746.

MY LORD...

I imagined by the reinforcement of four battalions, embarked for this country, that in the South you were not very easy at our situation; and I make no doubt the Jacobites have been very busy in raising the power and force of their friends in the Hills, in order to alarm the Government, if possible, in such a manner as to prevent supplies being sent to our allies abroad. The thing which seems to give your Lordship some concern is the apprehension that the Rebels, after taking Fort William, should have it in their power to scour down again to the South, and by that means be for ever giving us the slip. To that I shall only give your Lordship my idea of our present situation which, in my opinion, gives 'em very little chance of effecting such a step.

In the first place, I don't think it likely they will be able to make themselves masters of Fort William; for by the last accounts come in from those parts, they have given over, or are on the point of quitting, that undertaking, and should they even persist, it will be too much for them to execute before we shall be able to move to its relief; by this means that bridle to the West Coast will still continue. In Argyllshire General Campbell has collected the

militia of the country, who, (tho' God knows they are not to be supposed to fight), by the connection they have with the principal Rebel clans their neighbours, will, I daresay, be protection enough for their own country. But should they act contrary to their usual cunning and the affection they bear to one another in all roguery, the corps of Hessians, to which if occasion should require it, we may add more troops, will be more than sufficient to drive all the Hills into the Sea. Supposing them posted, till the weather allows of encamping, at Perth, Crief or Stirling, and encamped afterwards in some convenient post at the entrance of the mountains, near or on the Tay, they will be at hand to defend those passes or to move to Glasgow, or such other post in that part, as may effectually prevent a Southern march without fighting, which they don't mean, if they intend to come down into the Low Country again.

The detachments we have made to oblige the people at Glenesk and the high parts of the Merns to bring in their arms, has had a very good effect. The officers who command those parties have already received a great number, and by their alertness will contribute a great deal, I believe, to frighten that part of the country into their obedience.

Within these ten days there has been a good deal of uneasiness amongst the Rebels, occasioned in a great measure, I believe, from the want of money to pay their men who, not contented with meal for themselves only in lieu of money, demand in a rebellious manner subsistence for their families likewise, or they shall go home to provide for them. This want may easily be continued amongst them if the men of war do their duty; some people imagine this want may induce them to try a battle once more with us, but I doubt it. If they should, I flatter myself to have the honour to congratulate your Lordship on the success the nation has reason to expect from us, and soon after set out post to take leave of your Lordship once more, and immediately embark for Flanders.

The news from Italy is great and worthy of the Prince that sends it. I hope it will tend something towards disuniting France and Spain, for I imagine the Queen had rather France lost all Flanders again than she her hopes of a settlement in Italy for her son. The next accounts will be, I hope, that the French are quite drove out of the country¹.

Our last accounts from the North say that the men of war had sunk several boats that were crossing the Firth of Dornoch. The Rebels endeavoured to get their Lowlanders to cross the Firth in order to secure 'em, but they did not approve the scheme and 200 immediately deserted. That put a stop, I believe, to the execution of the project.

The Rebels have threatened to burn Lord Findlater's² house, if

¹ The Austrian forces, set free by the Treaty of Dresden with Prussia, had recovered Parma, Guastalla, and Milan; on June 17 they defeated the Spaniards and French near Placentia and in September entered Genoa.

² James Ogilvy, fifth Earl of Findlater and second Earl of Seafield (c. 1689-1764), a

the cess was not paid as they had demanded; but H.R.H. has let 'em know that, if they dare to do it, he had a great deal of firing in his hands and, without waiting for confiscation, would burn all their houses from Edinburgh to the furthest extent of his progress. This counter-threat will, I believe, prevent their putting their's in execution. The cess demanded is about £800 and my Lord reckons his house and furniture etc. at £15000; but to do him justice, he behaves very well upon the occasion. He always enquires much after your Lordship and told me he had the pleasure last post to receive a letter from you....I made compliments to him and Lady of course, and so shall continue, for I find they are likely to make the campaign with us ; of the two my Lady seems the properst for it.

I have the Honour to be [etc.]

JOSEPH YORKE¹.

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 211.]

POWIS HOUSE, April 5th, 1746.

DEAR JOE,

...It gives me the greatest pleasure to hear that H.R.H. preserves his health, which is of such inestimable value to this country, and that your's has not yet received any prejudice from the bad weather and worse climate. For the rest, the long continuance of this execrable Rebellion, notwithstanding the vigilance and activity of H.R.H., the barefaced and open assistances daily given to it, and the sly, underhand supports and encouragement it meets with, give me the utmost anxiety. Besides the public calamity to the Kingdom, it hangs upon the wheels of all business and infects and clogs every measure. The affair of Strathbogie² gave us hopes that the advanced corps under General Bland would have struck a general panic into the Rebels on that side, which makes us the more concerned that the accident at Keith has happened to revive their sinking spirits. But when the season will permit the Duke to move, I doubt not all that will be retrieved. I am glad the Hessians are marched. The story of their insisting upon a cartel had been spread in this Town, but I hope it will be

representative peer for Scotland in the House of Lords and Vice-Admiral of Scotland. He was a staunch supporter of the administration, and a correspondent of Lord Hardwicke's on Scotch affairs. He was now making provision for the Duke's army.

¹ See further, f. 214.

² A body of 500 Rebels were nearly surprised by the Duke of Cumberland's men here. The latter retreated to Keith, and a small number of them were in their turn surprised and cut up or captured on March 17.

now sufficiently discredited¹. I wish they may come time enough for the relief of Castle-Blair, for Lord Glenorchy writes me word from Perth that a person, who escaped out of it on the 23rd past at night, reported that they had not provisions for above four days or five at most, and it would be the 28th before the Hessian troops could be there. He says they had lost only one man in the place. ...The news of your expedition to Perth surprised me², having received a letter from you dated that very day, without any hint of it. But I rejoice that it succeeded so well and hope that any misunderstandings, that might have arisen from the steps which gave occasion to it, will be entirely quieted and healed.

The Rebels crossing the Firth at Dornick [Dornoch]³ and the situation into which it has put my Lord Loudoun and Lord President, are very untoward circumstances, especially if it be true that many of Lord Loudoun's regiment, as well as of the independent companies, are deserted to them. For my own part, I never tasted that measure, and am now thoroughly cured of any inclination for raising troops amongst what they call the well-affected Highlanders. I believe they may fight in Flanders, but they have shewn they can distinguish between cases. One would have expected that our men of war and armed vessels might have prevented this mischief; but I own I have never understood the operations of our marine upon the coast of Scotland....

I am sorry to find you talk of staying in Scotland till September. 'Tis no pleasant prospect, either for the public or yourselves; but *spero meliora*. I heartily feel for H.R.H. and all the disagreeable things he is forced to go thro'; but I know he has the spirit and firmness to go thro' them for the sake of his King, his Father and his Country; and am confident will make it his rule—*non ponere rumores ante salutem*. Pray lay me at his feet, with the repeated tender of my most humble duty and best wishes....

Your most affectionate Father

HARDWICKE.

...I am sorry you have not your horses with you, but turn'd it a little to my account; for I made use of Grey in the country who is in perfect order....

¹ Lord George Gordon attempted to secure from the Prince of Hesse an exchange of prisoners but received no reply.

² See above, p. 513 *n.*

³ See p. 511 *n.*

P. S. I had writ thus far when yours of 31st inst. arrived this moment....Don't amuse yourselves with the hopes of a campaign in Flanders. I don't mean from the near prospect of a peace, but your work in Scotland will not permit it. This *entre nous*.

...Your bill on the goldsmith was duly honoured. Once more Adieu.

H.

Hon. Charles Yorke to Col. the Hon. Joseph Yorke

[H. 37, f. 58.]

LINCOLN'S INN, April 7, 1746.

...I am sorry to find in every letter you write from Scotland that you speak more doubtfully (not of the probable success) but of the time when these things will have an end. The difficulty will be to bring the Rebellion to a crisis...The lies dispersed everywhere are innumerable. It is said that the P[elham]s are making up matters with G[raville]. Complaints spread abroad: Why does the Duke stay at Aberdeen? That he has disengaged all the officers; Lord Cr[awford]¹ has desired leave to resign; Genl H[uske] in like manner; that he countenances great enormities. The silliest stories are told; that he goes to bull-baitings on Sunday evenings to the scandal of grave people; that his aide-de-camps sat up drinking one Saturday night till four the next morning; that an honest presbyterian parson took notice of it and declaimed against it in his sermon; that he was called to account for it the same day, being tempted to dine with the said aide-de-camps, who sold him a bargain, beat him and kicked the poor man downstairs. Such nonsense is told at large in letters out of the well-affected country where you are....

Lord Glenorchy to Col. the Hon. Joseph Yorke

[H. 83, f. 67.]

TAYMOUTH, 10th April, 1746.

DEAR COLONEL,

I'm sorry my horses could be of no service to you and that 'twas not in my power to send a groom with them. I wish the little one may be of use to you. If I had better, they should be most sincerely at your service.

You'll have heard before now of the raising the siege of Fort William. One of the people I have out for intelligence is

¹ John Lindsay, 20th Earl of Crawford (1702-1749), one of the most distinguished soldiers of the day, had served with Prince Eugene in 1735 and with the Russian army against the Turks. He commanded the Life Guards at Dettingen and performed great services at Fontenoy by covering the retreat. On the outbreak of the Rebellion he commanded the Hessians, who at Stirling and Perth secured the passes into the South; and subsequently took part in the campaign in the Netherlands. He died from a wound in 1749.

returned from that country, and tells me that Lochiel had on Monday, the 6th, 400 men with him, but could not persuade them to go out of the country, and that MacDonald of Keppoch was at home with all his men. He says there is a coolness between the Camerons and MacDonalds, occasioned by something which happened at the sally made by the garrison. The MacDonalds complain the others did not come time enough to relieve their guard, and the others complain of them for going away before they came.

I believe the gentlemen of that country will find it difficult to get the men out of it, if they imagine they can be safe at home. The Chiefs say the burning of some places was the luckiest thing possible for them, several people, whom they could never influence to go with them before, having since joined them.

I am extremely sorry any of my men have deserted home. I was in hopes Mr Campbell of Carwhin's presence would have restrained them; 'twas for that purpose I sent him with them, having suffered considerably in my estate by his absence. This is the time of year for sowing their grounds by which their families are to be supported, which makes country farmers very earnest to go home after being six months absent. Great numbers of those stationed hereabouts have deserted home and I hear have been punished, as they deserve, by General Campbell's order. I believe this restlessness is in the nature of the Highlanders, for 'tis the same thing with those in the Rebellion. Their chiefs can never keep them long together; they are every now and then running home and their masters are forced to go to fetch them out again. I don't say this to excuse my men; I believe they are like the rest; I heartily wish they were better. I have been in a negotiation with one, who has been backwards and forwards several times with the Rebels and is indeed one of them. At last I had an interview with him at night, none other present, and I have engaged him to send all the intelligence he can from them....

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 216.] CAMP OF SPEY-MOUTH, April 12th, 1746, Saturday at night.

MY LORD,

Tho' in the midst of the hurry of the noisy camp and heartily tired with the labours of the day, I can't help informing your Lordship of our having surmounted that terrible affair, the passage of the River Spey, which we effected this day at noon. When we left Aberdeen it was not proposed to have crost it by two days so soon, but H.R.H., on his march to this place, judged it proper to change his disposition two or three times in order to delude the Enemy, and by some feint draw them to an action. But all hitherto without effect; for on the sight of the head of our column of Grenadiers this morning, the Rebels, who were on this

side the river to the number of 2000, assembled all their men and marched away with great precipitation, leaving however a corps of Horse and what they call Hussars (who by the way are the most active people they have) to skirmish with our people on the banks of the river. H.R.H., who had given it out that the army was to encamp at Fochabers, to which place a column of Foot directed its march, led himself another column to the ford of Baily, about a mile nearer the sea than Fochabers, and there made good his passage, the Enemy not caring to come near us.

If the Rebels had defended this river, we should have found some difficulty to have past so cheap; for I never saw a stronger post in my life by nature, and a very little art would have rendered it very strong and tenable.

The Rebels here, who were chiefly the Lowlanders, complain bitterly of the Pretender and the clans for not coming down to them which, joined to the entire want of money, renders them mutinous and fearful. The greatest part of the Macintoshes left them some days ago and the men desert in bodies.

It gives me great satisfaction that my hopes of Fort William have answered exactly my expectation¹. It is said that the Lochaber clans refuse to go out again for fear the garrison of the Fort should entirely ruin their country, which they may depend on, if they dare to stir. The behaviour of the Governor and the garrison make one more ashamed for the giving up of Fort Augustus. As these gentry have not thought proper to stand us on this river, I have no idea that they will join anywhere, but all shift for themselves; but as we march tomorrow morning early to Elgin, perhaps on to Forres, we shall clear up these mysteries.

Before they left Lord Findlater's at Cullen, they plundered the house by order, broke all the doors, glasses, wainscoats, china and took everything but pictures they could lay their hands on. My Lord and Lady behaved very well on the occasion, and immediately gave 10 guineas a regiment to the whole army. We encamped at Cullen last night and lay at the remains of my Lord's house. My Lady took infinite pains, and accompanies my Lord towards Inverness with us.

Our men are in high spirits and shewed the utmost alacrity in fording the river, tho' up to their waists.

I hope we gain ground in the Rebellion and shall, before the chase blows us, be in at the death.

I am fast asleep and hardly know what I write, so I must beg your Lordship to excuse the inaccuracies of this letter amongst the other manifold faults of your Lordship's [etc.].

JOSEPH YORKE....

¹ See above, p. 514

Archbishop of York to the Lord Chancellor

[H. 250, f. 205.]

BISHOPTHORPE, April 16, 1746.

...I had the pleasure of a letter last post from Aberdeen from my good friend, the Colonel. The news he sent was very acceptable of the recovery of the troops, and the plenty of provisions and the spirits of the men....I must tell your Lordship that his letters give me infinite delight. There is always in them such a mixture of economy and caution and providence and a calm spirit that, as one may say, will wear well. I am glad the Duke has so good a servant so near him. There was a great spirit yesterday in York for the celebration of the Duke's birthday. I have not heard of the issue of their joy, but we felt at Bishopthorpe there was great profusion of gunpowder. Many of the gentlemen took it into their heads to dine with me, the Lord Mayor and the Church and many of the soldiery, and some young rakes, who made a shift to be demure for an hour or two. I sent for the city cook and did the best I could for them. The brave Captain Thornton, piping hot from Scotland, was one of my company. He is of opinion the Rebels will fight the Duke, and such a rooted contempt has he for our soldiers from the battle of Falkirk, which he was present at, that he says they will not. He is in raptures with the Duke.... The Captain thinks a regiment or two of Yorkshire militia would do the King's business at once. The man is an oddity but, methinks, it would be a right thing to please him with a little rank; for he has a good estate and becomes a broad French belt and an Highland broadsword and plaid, which he brought away with him....

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 218.]

CAMP OF INVERNESS, April 18th, 1746.

MY LORD,

Lord Bury's¹ departure was so sudden after our arrival in this town, that I had only time to tell the good news and sign my name, without entering into particulars; and tho' I take it for granted many better accounts than mine will reach your Lordship's hands, yet as a partaker in that glorious day of liberty, I can't help telling the story myself.

I wrote to your Lordship from Nairn Camp on the 15th, our hero's birthday², where we had halted in order to refresh our men after the fatigues of several long marches, and to make the proper dispositions for what might happen the next day, tho' many believed it would have ended in nothing. His Royal Highness that evening, after having given his orders for the manner the army should march the next morning, assembled the commanding officers

¹ Eldest son of the second Earl of Albemarle and aide-de-camp to the Duke.

² The Duke's 25th birthday.

of every regiment, told 'em the possibility there was of coming to an action the next day with the Rebels, the method he would have everyone of them observe in leading up his regiment, and what he expected from them, and assured them of victory if they observed his orders.

The Rebels, whom we knew to be what they call encamp'd (i.e. *sub Dio*) near Culloden, the President's¹ house, in expectation of our marching towards Inverness that day, finding on approach of night, that we did not advance as they expected, imagined that, as it was a holiday with us for the Duke's birth, we should be all drunk in our camp, and fall an easy prey to their swords. Pleas'd with this idea, they put themselves in march to attack our camp in the night. Our scouts and patroles, that were advanced four miles from our camp, brought us intelligence that some of the Rebels had come within 5 measured miles of our camp, but were all gone back; and we found afterwards that the column, which Lord George Murray led, had lost their way in the dark, which had obliged them to return to Culloden in a good deal of hurry and confusion.

On the 16th, at 4 o'clock in the morning, H.R.H. began his march from the camp in 4 columns, three of foot and one of cavalry, the artillery following the great road. About 5 miles from our camp, on an alarm given by some of our light parties in the front, that detachments of the Rebels were in sight, the Duke made the army form immediately in line of battle, which they did with that ease and alacrity as surprised every spectator, and gave the greatest hopes of future success. This alarm, however, proving false, the army was again reduced into columns and continued its march. A second alarm of the like nature, about 3 miles further, occasioned a second ranging the army, with equal skill and alertness.

As we drew nearer Culloden, two or three honest persons, who had been sent for that purpose, returned and informed the Duke that the Rebels were formed with their right to the water of Nairn, and their left to the sea, having the parks (i.e. the grounds enclosed with stone walls) of Culloden in the rear of their left, intending, as the English army marched along the high road to Inverness, to take 'em in flank, or fall upon the head of their march; and the better to conceal their purpose and lull us, if they could, into a fatal security, they, contrary to their usual caution, sent out no hussars nor people to reconnoitre us, in hopes that we, deceived by the quiet that reigned all about us, might at once fall into the snare they designed us. This information was enough to determine H.R.H. what method to take to disappoint their design, and make it turn to their own confusion. He with great skill and military genius changed in an instant the disposition of the march, and leaving the great Inverness road on the right, continued moving over the hills, called Gladsmuir, till we came within a mile and a half of the enemy, when we drew up again in order of battle, and marched forward so formed towards the Rebels. As we drew near,

¹ Duncan Forbes, Lord President of the Court of Session.

I could observe this manoeuvre of ours had caused a good deal of confusion amongst them, and they seemed to incline more to the water of Nairn. This inclination of theirs being observed, our left continued stretching out that way too; and at the same time Lieut. General Hawley and Major General Bland, with 5 squadrons of dragoons, unperceived by them, crept along on the side of the descent to the river, in order to fall upon their flank if they should, according to custom, endeavour to gain one of ours. This had, as will be seen after, the desired effect. When we were within 3 hundred yards of the Rebels, they fired from the battery of 4 pieces of cannon, which they had in their centre, but with little or no effect. However, our artillery was immediately formed between the intervals of our battalions; at the same time the Duke, for fear the Rebels might outflank us on their left, ordered up Pulteney's regiment and two squadrons of Kingston's from the reserve, and one squadron of Mark Kerr's from the left, to the front line, on the right of the Royal.

When our cannon had fired about two rounds, I could plainly perceive that the Rebels fluctuated extremely, and could not remain long in the position they were then in without running away or coming down upon us; and according as I thought, in two or three minutes they broke from the centre in 3 large bodies, like wedges, and moved forward. At first they made a feint, as if they would come down upon our right, but seeing that wing so well covered, and imagining that they might surround the left because they saw no cavalry to cover it, two of these wedges bore down immediately upon Barrell's and Monro's regiments, which formed the left of the first line; and after firing very irregularly at a considerable distance, they rush'd furiously in upon 'em, thinking to carry down all before 'em, as they had done on former occasions. However, they found themselves grossly mistaken; for tho' by the violence of the shock Barrell's regiment was a little staggered, yet Major General Huske (who commanded the second line), perceiving where the weight was felt, rode up to the regiment, and bidding the men push home with their bayonets, was so well obeyed by these brave fellows, that hundreds perished on their points. At the same instant, the Rebels who came round the left of Barrell's, and in the pell-mell broke through the line, met their fate from the fire of Wolfe's and Ligonier's on the left of the second line. The broad swords succeeding so ill, the Rebels turned their backs, and in flying were so well received by the cavalry under Hawley and Bland, who had broke down two dry stone walls, and unperceived had gained their rear, that a general rout and slaughter ensued among them. To all this on the left I was an eye-witness; for the Duke's piercing eye, discerning how hard the left was pressed, sent me thither to order Major General Huske to remedy it from the second line. In the meantime, that wedge which was designed to fall on our right, after making 3 feints, as if they were coming down upon us, in order to draw away our fire, seeing that

the right kept shouldered with the greatest coolness, and the 3 squadrons were moving towards their flank, followed the example of their right wing and fled for it. Immediately the horse were in amongst 'em, and the lines of foot advanced with shouts of victory and with the regularity of well disciplined troops.

To describe the slaughter and confusion of the scoundrels requires a pen as much abler than mine as the arms that dealt death to the Rebels were stronger ; but so glorious a ruin eye never saw before. The remembrance of former wrongs, the barbarity with which our prisoners had in general been used, and the glorious desire of recovering lost reputation, infused such spirits in the breasts of all, that had not fear added wings to their feet, none would have escaped the edge of the sword.

The Pretender, as soon as ever he saw how the day was likely to turn, instead of endeavouring to rally his people, or make the least stand, after being witness to the flight of the Lowlanders and French, who composed the second line, without their ever approaching us, with the few horse he had, galloped off for the mountains. Major General Bland pursued quite to Inverness and there made prisoners of war a great number of the French, whilst Lord Ancram, with the squadrons of the right, pursued to the hills on the Nairn, and was followed for about 3 miles by the lines of foot, making a continual slaughter. Lord Kilmarnock, on foot by himself, fell on his face and begg'd for quarter, which was granted him with difficulty.

They left on the field all their cannon, which were 12, several colours, and numbers of all sorts of arms. There were killed in the field about 2000, besides the wounded who crept away, many of whom have been since taken, and we have about 1000 prisoners.

Amongst the killed of note are Lord Strathallan¹, Col. McLachlan², Col. Chisholm, Col. McIntosh, Col. Frazier, McDonald of Keppoch³, Lochiel⁴ and numbers of others. On our side (which will hardly be credited) 44 only are killed and about 250 wounded. Lord Robert Kerr killed with his spontoon in the heart of a Rebel. Col. Rich much wounded, and about 10 more officers killed and wounded. It were endless to enumerate the prisoners ; besides your Lordship will have an exact account from H.R.H.

Yesterday a detachment of 600 was sent into the country of the McIntoshes, which have destroyed the goods and tackling of husbandry belonging to the Rebels, and have brought in about 6 or 700 cattle and sheep. And this morning Brigadier Mordaunt

¹ William Drummond, fourth Viscount Strathallan (1690-1746), had taken part in the rebellion of 1715 and was captured at Sheriffmuir, but escaped punishment. He was placed at the head of the rebel forces in Scotland during the Prince's march into England, and commanded a squadron at Culloden.

² Lauchlan MacLachlan, chief of the clan Lauchlan, had been present at Prestonpans and Falkirk and in Scotland with Lord Strathallan.

³ Chief of the Macdonalds of Keppoch whom he led in the battle.

⁴ An error ; he was severely wounded but escaped abroad and died in 1748. See p. 437 *n.*

went into Lord Lovat's country to reduce them by fire and sword. Lord Cromertie and his son, with 100 men are taken in Rossshire, and the loyal people in the North are rose to knock the fugitives of the head. The Pretender is gone towards Lochaber, and I hope in a little time we shall clear the whole country. As I havn't time to correct what I write, I am afraid your Lordship will think me unintelligible; but I must beg you would excuse it, and make up what is wanting in mine from the more correct accounts of other people.

I congratulate your Lordship and the whole nation on this glorious beginning of the heroic Prince who leads us, and pray to the Almighty that he may continue to establish his Father's throne, and live the darling of a free people.

I have the honour to be with the highest respect, Your Lordship's most obliged, dutiful son and servant,

JOSEPH YORKE.

My humble duty to Mama, whose spirits I hope this will revive. Love and compliments to all.

[Accompanied by a "rough" sketch in pencil of the battle "taken on the spot." See also H. 541, ff. 105 sqq. where there is another pencil sketch with more details and a white cockade from the field of battle, inscribed "With Charles, our Brave and Merciful P. Ro. We'll greatly fall or nobly save our Country," and ff. 111-113, fair plans of the battle¹.]

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 223.]

POWIS HOUSE, April 29th, 1746.

DEAR JOE,

My time has been so taken up these two days with drawing motions, addresses and resolutions of thanks², where they are most justly due, that I have barely time to thank you for your two letters. I never felt so much joy in my life as I did upon your billet by my Lord Bury; and I thought it incapable of any addition till your next, of the 18th inst., which proves the Duke's success to be so far different from that of others, that instead of falling short of the first accounts, it grows upon our hands, and every day adds to the glory of it. Never were so great and universal rejoicings seen in the metropolis, and the good affection, zeal and spirit of the people is raised beyond expression. And indeed, there is reason for it; for this victory has in it all the

¹ Cf. the account in A. Lang's *Hist. of Scotland*, iv. 509 sqq., who prints a reduced facsimile of Col. Yorke's sketch, and discusses the accuracy of some details in it, pp. 524-5. He gives the numbers as 8811 British with 18 guns, and reckons the Highlanders as not more than 5000.

² H. 521, f. 128 and 11. 240, f. 216.

circumstances one could wish. The rout so total; the loss of our own officers and soldiers so small; their behaviour so gallant and firm; and the whole performed by our national troops alone, led on by a son of the King. God be praised for all this. How much we think ourselves indebted to H.R.Highness, the universal voice of the people, and the addresses and resolutions of both Houses of Parliament, will testify, tho' not in a manner adequate to what we feel. I enclose you copies of the Lords' Address, and of their Resolution of Thanks to the Duke, which I have the honour to transmit in form to His R.H. by this messenger. You will observe what is pointed at in one part of the Address; and I doubt not it will end in an honourable settlement upon His R.H. When you see that of the Commons, you will find the words more explicit, as things of that nature must first move from them¹. The Duke may depend on the most zealous and active endeavours of his faithful servant.

I am much pleased with your ample and clear narrative of the action, which, I fancy, I understand much the better for your sketch, which is very intelligible. I hope the affair is over, and this villainous attempt crushed at once. Lord Justice Clerk adds a circumstance in his letter of Saturday last, that Lord John Drummond (as he is called) sent orders to the French officers and soldiers to surrender themselves, which looks as if he was convinced there was no further use of them. I had writ thus far, when your letter of the 23rd came in; and am glad to be confirmed by it in the opinion just mentioned. Orders are sent for the Hessians to embark immediately for Flanders; and it is submitted to the Duke's judgment whether the four battalions under Skelton may be spared. You know I am one that love to make this great game secure, and think it cannot be too secure; and therefore hope nothing will be done prematurely. I am as full of admiration of H.R.H.'s calmness and prudence in the preparatory steps to, as of his valour and conduct in, the battle. His patient waiting till he was quite prepared; his prudent enduring all the disagreeable circumstances thro' which he has struggled to this victory, fill my mind with the highest idea of him.

You guess'd right at the high spirits your good mother would be in. She never was so elated in her life. We all rejoice much in your safety.

¹ The Duke was given a pension of £25,000 a year in addition to his former one of £15,000.

We shall now be proceeding by laws. This day a bill of attainder, with about fifty of the principal names, was brought into the House of Commons ; but I believe your two peers that are in custody will give us the trouble of a trial by the House of Peers.

All your friends here send you their kindest love, and most cordial congratulations. Your Mother joins in her blessing with me, who am ever

your most affectionate Father

HARDWICKE.

Make my best compliments to my Lord Albemarle, General Huske and all my friends, with my hearty thanks.

P.S. ...Since writing what goes before, the Duke of Newcastle has been with me, and upon the Duke's letter the orders about the Hessians are suspended, and I believe the whole will be left to H.R.H.'s judgment and consideration. But this will delay the messenger till tomorrow.

Tuesday late at night. P.S. As I found your account of the 18th so particular, I knew the King would like to see it and therefore sent it to him. How much His Majesty was pleased with it you will see by the answer, which he was so gracious to write in returning it. My billet was as follows :

As the enclosed letter may possibly contain some minute particulars of the late glorious day, which your Majesty may not have met with in other accounts, I humbly beg leave to lay it at your Majesty's feet. I the rather flatter myself to be pardoned by your Majesty for this trouble, as it is accompanied with a rough sketch of the action, drawn on the Field of Battle. May I presume to add my most dutiful and joyful congratulations on this great occasion, with my most ardent wishes that God Almighty may prosper all your Majesty's undertakings with equal or (if possible) still greater success.

HARDWICKE.

April 26th, 1746.

I thank you, my Lord, for this very pretty description of the Battle, and for all the good wishes you have added to it.

GEORGE R.¹

¹ II. 541, f. 109.

Since that his Majesty has had it again to peruse, and has said so much in its commendation to the Princess Amalie and the Duke of Newcastle as well as to myself, that I should be in danger of making you vain by relating it. He wants mightily to have it printed in some of the daily papers, tho' without a name; but upon this I demur at present for obvious reasons.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 124.]

CAMP OF INVERNESS, April 30th, 1746.

DEAR BROTHER,

I hope the apprehensions of the terrible Highlanders is by this time a little abated....The prudence which directed our steps till the day of action is, I think, sufficiently justified by the event. Nothing could be carried on with more exactness, spirit and circumspection than H.R.H., to his immortal honour in the annals of British history, has conducted this whole affair; and I flatter myself that this is the last time blood will be shed in the field by fellow subjects of this island. The completion of this great event depends now on the unanimity and despatch of your House....

Since the battle our time has been taken up in hunting out the Rebels who made their escape from our fury that day, and in examining the papers found in the baggage and pockets of the officers killed and taken....If you were with us, I believe you would once in your life be tired of original papers....It is very evident, I think, from such as I have perused that the Rebels never seem to have had any settled scheme or formed plan of operations but were, by all I can gather from their own accounts, guided wholly by events and the circumstances arising from daily occurrences; for neither in case of success nor defeat had they determined on what method to proceed, but referred all to the chapter of accidents. Disputes, jealousies, doubts of one another are on all sides plain which, with the total want of order, discipline and economy, must have made a hell upon earth....The French and they were continually jarring and I am firmly persuaded, had they been numerous enough, the French would have saved us a great deal of trouble by putting an end to the Rebellion themselves; for they could not endure one another and every letter they wrote during the time they were amongst them, are filled with complaints of their brutality and total want of obedience and discipline....

The Young Pretender is still lurking about in the Highlands, either in the Camerons country or in the Isles, where he first landed. The Duke of Perth and Lord John Drummond are, as I hear, the only people at present with him. When we move, we shall do our best to ferret him out, and if we can't send him to his long home, endeavour at least to rid the island of him....

I long to hear you have begun to make some laws for this

country, which absolutely till this time have [has] been without any, or governed by the impositions of the Highland scoundrel chiefs. You must never expect to see a total end to the rebellious spirit of this country till the Highlanders are unclanned, undressed, effectually disarmed and taught to speak English....

JOSEPH YORKE.

Archbishop of York to the Lord Chancellor

[H. 250, f. 208.]

BISHOPTHORPE, Ap: 30: 1746.

MY LORD,

Give me leave to interrupt you for a moment to congratulate you on this great event in Scotland. This brave young man has done his country and family incredible service, and one cannot help envying the Father the pleasure he must receive from such a son. I congratulate your Lordship too on account of the ease and tranquillity it must bring to you after a winter of so much pains and anxiety; and your Lordship will give me leave to share with you a little in your joy for the safety of Col. Yorke, who I daresay has acquitted himself as became him. For my own part, I own I find myself a great deal lighter, and feel by an experience, what I knew only in speculation before, the value of public peace and the blessings of a gentle government. It is now in the power of our great men to give stability to the King's family and our happiness....*

* H. 98, f. 1; H. 75, f. 24. I cannot help expressing my surprise that my Father collected no more papers relative to the Rebellion of 1745, the Dunkirk invasion and other overt acts which preceded it. He knew everything that passed then and the scene was an interesting one. The letters intercepted on board a felucca by one of Admiral Mathews's cruisers in 1742 or 3, together with other Jacobite intelligence, one might have expected he would have obtained copies of. They may be met with among the Duke of Newcastle's papers, together with the intelligence procured from a person at Paris, which cost government £6 or £10,000, paid by Mr Thompson, then our Resident there. On that paper Col. Cecyl, Lord Barrimore, etc. were taken up. Against the former a very curious indictment for misprision of treason was prepared by Mr Masterman of the Crown Office, but never preferred or found. Lord M[ansfiel]d knows more of the secrets of that time than anybody, and I heard him say some years ago that the reason why Col. Cecyl's prosecution was dropped was that it was discovered from his papers that he had been formerly a spy for government and employed by Sir R. Walpole. He was also a known agent of the Jacobites, consequently a double spy. H. [Papers may have been destroyed for reasons of prudence. Many persons had given assurances of their fidelity to James and among these was said to be the Duke of Bedford, A. Lang, *Hist. of Scotland*, iv. 438. The scantiness of the correspondence with the Duke of Newcastle at this period is possibly explained by the Chancellor's prolonged stay in London this year.

According to A. Lang, *Hist. of Scotland*, iv. 436, Walpole is said to have wormed secrets out of the Jacobite agent in England, Colonel Cecil, by pretending to be of that party. This and the statement in the text probably explain the mysterious communications between the Pretender and Walpole. See above, pp. 204 n., 397. For Lord Barrymore see above, p. 304 n.]

CHAPTER XV

SCOTLAND : DISCIPLINE AND GOVERNANCE

THE battle of Culloden had finally destroyed the hopes of the Jacobites in the field, and Prince Charles himself had fled, abandoning the cause ; but there still remained for the victorious party the difficult task of suppressing the scattered elements of rebellion and of restoring order. This necessary work was accomplished with thoroughness and severity and, according to some writers, with cruelty.

It is certain that war, and this was still war, cannot be carried on without entailing great misery and privation, not only upon the guilty but also upon the innocent, and it is the common experience that such misfortunes lose nothing in their retailment by the sufferers. But it has been reserved for our own times to show to what depths of falsehood and slander may be carried statements invented or exaggerated by the defeated party, when made use of by the factious and unprincipled to attack and embarrass those responsible for the administration, and even those actually fighting for their country in the field : and the recent experience of such unscrupulous calumnies, the wide credence given to them, and their support by persons even in the first rank of public life, who happened to be opposed to those in authority, are a warning not to credit or accept similar accounts in similar circumstances without strict proof and indisputable evidence.

It is clear, however, that the Duke of Cumberland made the great error of treating the rebellion as a national movement and branding the whole Scottish people with the common charge of disaffection. This conception was a false and dangerous one. He thereby pandered to the unreasoning popular jealousy of the Scots felt in England, so much deprecated by the Chancellor as an obstacle to the real union of the Kingdoms ; and neglected the

elementary rules of true statesmanship which must ever be to distinguish, to reduce antagonists to the smallest number possible, and not to drive friends into the ranks of foes.

He returned to England to instil unmerited prejudices into the mind of the King against Scotsmen in general, which were only too eagerly caught up; and it was through the Duke's influence that many of the Scottish leaders, who had remained at their posts and had given valuable support to the administration during the crisis by exerting their influence over the Clans, were ungratefully and unjustly excluded from all favours and rewards. Duncan Forbes, the great President of the Court of Session, died without any recognition of his services and without even, it is said, the repayment of the money which he had advanced in the public interest. Lord Glenorchy did not obtain his election to the House of Lords as a Peer of Scotland till 1752, and the King's consent was accompanied, to the Chancellor's extreme vexation and indignation, by harsh expressions and accusations of Jacobitism; while his petition for an English peerage was bluntly refused¹.

The Duke of Cumberland remained himself in Scotland till July 18, 1746, and superintended operations. The accounts of the indiscriminate slaughter said to have been carried out after the battle of Culloden appear to be disproved by the fact that comparatively so large a number of prisoners as 1000 was taken². The Duke, however, issued an order on the day following, April 17, for "A captain and 50 foot to march immediately to the field of battle and search all the cottages in the neighbourhood for Rebels; the officers and men will take notice that the public orders of the Rebels yesterday were to give us no quarters³." This has been deservedly reprobated, as giving an opening and encouragement to brutal and cold-blooded acts of revenge; and it is at least extremely doubtful whether the order referred to by the Duke in justifying his reprisals ever emanated from the Jacobite commanders⁴.

¹ pp. 553 sqq. See also *Life of Duncan Forbes*, by J. H. Burton; J. Ramsay's *Scotland and Scotsmen*, i. 54 and ii. 498; Cumberland to Newcastle in Coxe's *Pelham*, i. 299 sqq., ii. 412; H. 102, f. 121.

² pp. 540 sqq.

³ Col. J. Y.'s Orderly Book, H. 909, f. 60; Lord Elcho's *Short Account* (Charteris, 1907), app. 461.

⁴ See the order, H. 541, f. 95 b in Lord George Murray's handwriting in which the paragraph: "and to give no quarter to the Elector's troops on no account whatsoever," does not appear; nor does it in that amongst the D. of C.'s papers at Windsor (Lord Elcho's *Short Account*, as above); nor in the two copies in the MSS. of the Duke of Atholl,

That the Highlanders, however, had resolved to give no quarter and that they were guilty of cruelties was a common belief in the British army. On December 11, Col. Yorke, when on the track of the retreating rebels, writes positively of their "horrid cruelties." On December 19, he declares that the rebels attacked at Clifton crying out "Murder 'em: no quarter," and on April 18, 1746, in describing the battle of Culloden, he writes: "The barbarity with which our prisoners had in general been used...infused spirits into the hearts of all!" Lord Elcho, in particular, was accused of abominable outrages, and is said for this reason to have never obtained his pardon². According to the Archbishop of York, he was said to be a "monster in cruelty, for when he could not obtain cutting all the officers to pieces after Cope's defeat, he moved to have them hanged, and when that was not relished to have their right hands cut off, and if not that, their right thumbs³." It is

also in Lord G. M.'s handwriting (see *Athenaeum*, March 11, 1899, p. 309 and *Hist. MSS. Comm.*, Duke of Atholl, 74). It is evidently an interpolation—according to the writer of the article in the *Athenaeum*—by some unscrupulous partisan of the Government; but, as it is allowed that at least thirteen of these orders were distributed and as the discipline of the Highland army was exceedingly lax and Lord G. M.'s command disputed and unpopular, it is not at all unlikely that the paragraph may have been added by some of the Jacobite commanders. It was published in the *Edinburgh Courant* immediately after the battle, and other newspapers, e.g. *Scots. Mag.* viii. 192, followed suit. See also *An Impartial History of the late Rebellion*, by S. Boyse, 160; and *A Journey alone with the Army by a Volunteer* (1747), 162. It is also affirmed in a letter from Wolfe, written on the day after the battle, who adds "We had an opportunity of avenging ourselves, and I assure you as few prisoners were taken of the Highlanders as possible." *Life*, by R. Wright, 85. Cf. Lord Kilmarnock's statement, *Hist. Papers* (New Spalding Club, 1895), i. 323 and also the conversation between Lords Balmerino and Kilmarnock before mounting the scaffold. *Balm.*: Did you ever see or know of any order, signed by the Prince, to give no quarter at the battle of Culloden? *Kilm.*: No, my Lord. *Balm.*: Nor I either: and therefore it seems to be an invention to justify their own murder (or murderous scheme). *Kilm.*: No, my Lord, I do not think that this inference can be drawn from it; because while I was a prisoner at Inverness I was informed by several officers that there was such an order, signed Lord George Murray, and that it was in the Duke's custody.—Lord George Murray, replied Lord Balmerino, why then they should not charge it upon the Prince." *State Trials*, xviii. 511 and also 524-5. It is denied also by James Maxwell, see his *Narrative* (Maitland Club, 1841), 169; see also T. L. K. Oliphant, *The Jacobite Lairds of Gask*, 472, 476. Another order of the Duke's, dated February 20, 1746, to Capt. Campbell of Knockbuy, "to attack the rebels and give them no quarter" has been preserved. *Hist. MSS. Comm.*, Duke of Atholl, 74.

¹ Above, pp. 479, 486; the Chevalier de Johnstone, aide-de-camp to the Prince and to Lord George Murray, himself gives one instance, *Mem.* (1822), 88; and see Lord Malmesbury's *Letters*, i. 48, concerning similar acts by Lord Cromartie, testified to by eye-witnesses; *List of Persons concerned in the Rebellion* (Scottish Hist. Soc. Pubns. viii. 1890), 400; Add. MSS. 15,955, f. 45.

² *Short Account of the Affairs of Scotland*, by David, Lord Elcho, ed. by E. Charteris, p. 107.

³ H. 541, f. 91; also A. Carlyle's *Autobiog.* 142.

impossible now to prove or disprove such statements, but it is most probable that they were at least highly coloured by fear, by the angry passions aroused in war and by political prejudices. It is certain at least that many of the tales circulated in England to the discredit of the Duke of Cumberland were false. If his brother, writes Col. Yorke, on March 14, 1746, hears any stories of cruelties, he is to trace them to Scotsmen or Scotswomen. On April 7 Charles Yorke speaks of the "lies dispersed everywhere, as being innumerable." The Duke of Cumberland, it was declared, countenanced great enormities, while his aides-de-camp sat up drinking till 4 o'clock on Sunday morning, enticed Presbyterian ministers to their revels and then beat them¹. Writing to his brother in Scotland on April 17, Philip Yorke refuses to put to paper the lies spread about concerning the Duke and the army. "The best way is to despise such impotent malice and to shame both the knaves that invent and the fools that believe with silence, if one cannot into applause, by a steady perseverance in well-doing"². Horace Walpole, who generally writes severely of the Duke at this time, states: "The Scotch, the Jacobites and his brother's jealousy never rested till they had propagated such stories of his tyranny and severity as entirely lost him the hearts of the nation³". According to Lord Waldegrave, the calumnies against him were increased by the Prince of Wales's malicious intrigues⁴; and these tales found a too ready credence among the public, who imagined that all danger to the state had been removed by the defeat of the rebels, and in whose minds took place a sudden revulsion from fear and hatred to pity for the unfortunate Highlanders. "'Tis strange," writes Edmund Burke on April 26, 1746, immediately after the battle of Culloden, "to see how the minds of the people are in a few days changed. The very men, who, but a little while ago, while they were alarmed by his [the young Pretender's] progress, so heartily cursed and hated those unfortunate creatures, are now all pity and

¹ Above, p. 518: and the Jacobite James Maxwell's *Narrative* (Maitland Club, 1841), 168; also R. Chambers, *Hist. of the Rebellion* (1869), 308 etc.; and *Marchmont Papers*, i. 208, and for the emphatic contradiction of such tales below, p. 552; for the refutation of one abominable calumny see F. H. Skrine's *Fontenoy*, 301; and see James Bradshaw's declaration with details, "on the word of a dying man," of the Duke's supposed cruelties, who however appears to have been crazy. *Hist. MSS. Comm.*, Lord Kenyon, 477 *State Trials*, xviii. 415.

² Above, p. 513 n.

³ *George II*, i. 102.

⁴ *Memoirs*, 22; and see *Life of the Duke of Cumberland* by A. Henderson (1766), 260 sqq.

wish it could be terminated without bloodshed. I am sure I share in the general compassion¹." Such sentiments are only natural and creditable, but those in authority, who are responsible for government, have public duties to perform beyond the satisfaction of such private feelings—duties which must sometimes include the painful measures of punishment and repression.

The Duke of Cumberland was not naturally an inhumane man. There was a pleasing story of his thoughtful kindness to a wounded Frenchman at Dettingen². At Fontenoy he had shown tenderness of feeling and a natural grief at the loss of so many brave men³. At Carlisle he had acted with humanity towards the captured garrison⁴. But he was opposed on public grounds—and it is probable that he was right—to the leniency which had been shown in vain in the former rising in Scotland, and which was now urged in particular by President Forbes, who indeed gave a very lukewarm support to the later necessary reforms⁵. The Duke insisted on drastic measures for stamping out the last vestiges of armed rebellion. "As yet," he writes of the President to the Duke of Newcastle, on April 30, "we are vastly fond of one another but I fear it won't last, as he is as arrant Highland mad as Lord Stair or Crawford. He wishes for lenity, if it can be with safety, which he thinks but I don't⁶." This, and other speeches of the Duke, have generally been quoted as evidence of brutality and cruelty, as if lenity and humanity were synonymous terms, and as if a person in the Duke's office had no public duty to perform. "Do not imagine," he writes to the Duke of Newcastle, on April 4, 1746, "that threatening military execution and many other such things are pleasing to do, but nothing will go down without it in this part of

¹ *Correspondence*, ed. by Lord Fitzwilliam (1844), i. 17; and see p. 540.

² A. N. Campbell MacLachlan, *Military Life of the Duke of Cumberland*, 18; H. 257, f. 176, P. H. Cornabe to P. Y. December 27, 1743, N.S., Vienna: "For my part I was transported with joy when I heard of His Highness's noble and generous behaviour towards the wounded enemy he met with going to his tent to have his leg dressed. I do not remember anything finer in history."

³ pp. 399, 407.

⁴ Coxe's *Pelham*, i. 272.

⁵ *Culloden Papers*, No. 332; and below, p. 592.

⁶ N. 22, f. 128; and *Marchmont Papers*, i. 242. According to the Jacobite *Lyon in Mourning* "the Duke of Cumberland alluded to the President as 'that old woman who talked to me about humanity' and replied to his protests: 'The laws of the country, my Lord. I'll make a brigade give laws, by God'." But even Lord Tweeddale had suggested to the Lord Advocate the advisability of acting without the President, on account of the latter's fixed dislike to strong measures. G. W. T. Omund, *The Lord Advocates of Scotland*, ii. 12.

the world¹." Writing on June 3, 1746, Colonel Yorke describes the method of dealing with the rebels. Those who gave up their arms, were registered and allowed to remain in their homes, the Clan being made responsible for every individual; but those who refused and continued in rebellion, were pursued and killed, their cattle and goods confiscated, and their houses destroyed². Military operations cannot be carried on under the conditions of peace³, and it is clear that no order or government could be restored without severities of this kind, while the leader of Jacobite enthusiasm and disorder was still at large, able to collect about him more followers, or while the roving bands of armed men remained unsuppressed; and the manner of proceeding had the Chancellor's full approbation⁴. Nor could these methods form a subject of legitimate complaint by the enemy, who, if we may believe Lord Cromartie's account, had practised the same, or worse and more indiscriminate measures; and whose orders had been to levy money and men, and to procure food by force, and in case of refusal "to use all manner of military execution by burning houses, destroying cattle and other severities⁵." Even so staunch a Highlander as Forbes allows that "in the course of the rebellion, numberless excesses were committed by the Rebels by which innocent subjects suffered⁶." It is probable, however, that the wise distinction, laid down in Col. Yorke's letter, was not always preserved by subordinates in the heat of pursuit⁷, and that considerable hardships were suffered by individuals, though acts of military tyranny were often successfully restrained by the civil power, and private and unauthorized marauding expeditions, when discovered, were punished with the severest penalties by the Duke⁸.

¹ Coxe's *Pelham*, i. 300.

² p. 543; and also II. 541, f. 125 where Col. Y. replies to the complaints of the Duke of Montrose's factors concerning the depredations of the troops in the Macgregor country, showing the necessity of punishing those robbers and offenders. These very men are complained of by Lord Glenorchy, see pp. 539, 545.

³ Cf. the following in the House of Commons, February 19, 1908, which had reference to a punitive Indian expedition.—Mr Lupton (L. Sleaford): "Is it in accordance with humanity that the troops should destroy houses and carry off the corn and cattle of the inhabitants of the valleys?" Mr Morley: "If my hon. friend thinks that military operations can be conducted on the principles which regulate our own pacific relations, I am afraid his idea is a chimerical one." (Cheers.)

⁴ II. 6, f. 234.

⁵ *State Trials*, xviii. 527.

⁶ *Culloden Papers*, 283.

⁷ See p. 545; J. H. Burton, *Hist. of Scotland*, viii. 493-4.

⁸ J. H. Burton's *Hist. of Scotland*, viii. 494 sqq.; see the Duke's orders in A. N. Campbell Maclachlan, *Life of the Duke of Cumberland*, 322 sqq. For an instance of riotous conduct see *Hist. Papers* (New Spalding Club), vol. i. (1895) 273 sqq.; also

Such misfortunes are inevitable in war, and especially in war carried on in small skirmishes and by isolated bodies of troops. Lord Marchmont criticises President Forbes's "aversion to the military without considering the state of things," and states, "that the King's enemies sounded high every little slip of the army, to throw dirt at the Duke, who had acted with great ability and deserved the thanks of every friend the King had!."

Taking as wide a view as circumstances and evidence will permit, not neglecting single incidents such as the Duke's lamentable order after Culloden but at the same time not dwelling upon them unduly and disproportionately, making large reservations in the tales of atrocities told by both sides and making large allowances for the different temper of the times, it does not appear, to the present writer at least, that any general or systematic cruelty was employed by the military authorities in suppressing the rebellion.

In any case it is certain that once the revolt had been effectively crushed, the Government made a moderate and merciful use of their victory. An Act was passed enabling the rebels to be tried in England; and later, in 1748, a law for the more impartial and effectual trial and punishment of treason in the Highlands (21 George II, c. 19) provided for the empanelling of jurors from the adjacent county and for the trial of the accused in the Court of Justiciary at Edinburgh, on application to the Lord Chancellor, instead of in the county where the crime was committed¹.

The officers taken at Carlisle were executed on July 15. Of the 382 prisoners captured there, 33 incurred the death penalty, the majority of the rest being transported. Twenty-two persons were sentenced to capital punishment at York and others were condemned elsewhere: in all about 80 in number appear to have suffered². The rank and file who had taken up arms, mostly escaped punishment and were allowed to return to their homes on their surrender, or to embark for the Colonies, in extenuation of their crime. The chief strokes of the administrative power were aimed at the leaders of the rebellion, who failed to submit themselves to justice on or before July 12, 1746, but even here great

Scots. Mag. viii. 343 sqq. and *The Jacobite Lairds of Gask* by T. L. K. Oliphant, 201-2, with Col. J. Y.'s letter to Lady Gask, desiring particulars of complaints, "Every Gentleman in the army is concerned that any violence is offered to the Fair Sex, and it is absolutely contrary to his Royal Highness's intentions," when the offender lost his commission.

¹ *Marchmont Papers*, i. 191.

² p. 551; *Statutes at Large*, xix. 224.

³ J. H. Burton's *Hist. of Scotland*, viii. 496.

leniency was exercised. Forty-three were attainted by Act of Parliament¹, but the great majority of these escaped and few paid the penalty with their lives. Some were pardoned and the conduct of others, such as the Duke of Beaufort² and Sir Watkin Wynn³, who had been deeply implicated in the rebellion, it was thought wiser to ignore.

Two executions, those of Charles Radcliffe in 1746 and of Dr Archibald Cameron in 1753, have been especially but unduly censured, as of unnecessary severity.

The former, the youngest brother of James, earl of Derwentwater, executed in 1716, had been also sentenced to death for his share in the former rebellion, but had succeeded in escaping, and became the young Prince's secretary abroad. Subsequently he paid several visits to England unmolested, but in November 1745 he was captured on board a French warship bound for Montrose and conveying arms and soldiers, and was executed by beheading on his former sentence⁴. "It is impossible," writes Hallam, who has misunderstood the case, "not to reprobate the execution of Mr Radcliffe, after an absence of 30 years from his country, to the Sovereign of which he had never professed allegiance, nor could owe any except by the fiction of our law⁵." But persons engaged in armed rebellion against their own or a foreign government take their lives in their hands; and the condemnation on the former sentence involved no injustice and was the only procedure open to the law, since those already attainted could not be again tried for another offence⁶.

The case of Dr Archibald Cameron, a man of high character, younger brother of Cameron of Lochiel, by whom he is said to have been drawn into the rebellion, excites more legitimate compassion and roused Dr Johnson to pronounce an invective against George II's supposed cruelty⁷. His share appears to have

¹ For their names see *State Trials*, xviii. 640. II. 240, ff. 306, 335, 342.

² Charles Noel Somerset, fourth Duke of Beaufort (1709-1756).

³ Sir Watkin Williams Wynn (1692-1749), known as the "Great Sir Watkin," on account of his influence in North Wales, was one of the leading Jacobites of the day and a most bitter adversary of Sir R. Walpole; M.P. for Denbighshire. See above, pp. 76, 424.

⁴ *State Trials*, xix. 733; Sir M. Foster, *Report of Proceedings in Crown Cases*, 40.

⁵ *Const. Hist.* (1854), iii. 230 n.

⁶ Cf. the procedure in Sir Walter Raleigh's case, which has been similarly misunderstood.

⁷ Boswell's *Life of Johnson* (Birkbeck Hill), i. 147; Sir M. Foster, *Report of Proceedings in Crown Cases*, 109.

been chiefly non-combatant and to have been confined, for the most part, to medical attendance on the wounded and to aiding the Young Pretender's escape. Subsequently, however, in January 1747, he came over in a French ship which landed arms, and had interviews with the Jacobite leaders; and in 1753 he was captured in Scotland and executed, as had been Charles Radcliffe, upon his former attainder in 1745, by hanging without the usual cruelties. But there was a special cause for the severity shown by the government in this case. This was the knowledge that the prisoner was in this last journey concerned in a new and dangerous project of rebellion, supported by Frederick of Prussia, whose emissary he was, and who was preparing to send arms to Scotland to kindle the flames anew. "When he lost his hazardous game," writes Sir Walter Scott, "Dr Cameron only paid the forfeit which he must have calculated upon¹."

The estates of the rebels were not permanently confiscated, as in 1715, but annexed to the Crown: they were all subsequently restored to their families and a large number of the principal Scottish followers of the Pretender were finally pardoned and allowed to return to their homes². Even Horace Walpole cannot deny that the Government was "most laudably mild to its enemies³".

CORRESPONDENCE

Lord Glenorchy to Col. the Hon. Joseph Yorke

[H. 83, f. 80.]

TAYMOUTH, 3rd May, 1746.

DEAR COLONEL,

I return you many thanks for your account of the action....It was a decisive blow, and I hope His Royal Highness (whose name will be ever dear to all true lovers of their country),

¹ H. 50, f. 119; H. 539, f. 31 sqq.; Carlyle, *Fred. the Great*, Bk. xvi. Chap. xiii. who is misinformed and mistaken and ridicules the supposition; Walpole's *George II*, 333, 353 and *Letters*, iii. 152, 170; James Browne, *Hist. of the Highlands* (1845), iii. 401; A. Lang, *Pickle the Spy*, 195 sqq., 222 sqq., and Sir W. Scott in the Introduction to *Redgauntlet*, who acknowledges that Cameron was engaged in a treasonable mission but whose statement that he was executed "with all the severities of the law of treason" is erroneous. Dr Cameron was hanged till he was dead, disembowelled afterwards and not quartered. *State Trials*, xix. 738; also below, 601 n., and vol. ii. 7.

² A. Lang, *Hist. of Scotland*, iv. 522.

³ *George II*, i. 333; see also Forbes in *Culloden Papers*, 284-5.

will be soon released from the disagreeable labours he has gone through....I wrote to you...acquainting you that I had taken Count Mirabel and sent him to Perth¹. I have guards at several passes to intercept all who attempt to come through this country ; but notwithstanding all my care, some have passed in the night, and a body of 200 Macgregors went through in broad daylight, to my great mortification, that [? but] I did not expect it nor had arms to oppose so many. They went...into their own country of Balquhuader where they...endeavour to conceal themselves...They ought to be extirpated from thence, being the most pernicious race of mankind in being. If I can find any of the lurking holes of any persons of note, I'll acquaint you with it directly. I was informed that an officer of the Rebels, a Stewart, was come home wounded to his house, about 18 miles from hence. I would have sent a party to take him immediately, but upon enquiry I found his wounds were so bad he could not be removed. I had some people who kept a watchful eye over him in case of his recovery, but his death put an end to it. The tenants of a part of the Duke of Perth's estate joining to this, sent a deputation to acquaint me they would deliver up their arms to me. I told them I would receive their arms, but would make no promise of any kind to them ; but that the only way they could ever hope for mercy is by acting fairly in giving up their arms, and that His Royal Highness would then determine what he thought proper....I am most truly, dear Colonel, your obedient, humble servant,

GLENORCHY.

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 126.]

May the 17th, 1746.

[The House of Commons had passed a unanimous vote of thanks and money to the Duke of Cumberland.] My Lord went to Wimpole this morning for a week, if nothing unforeseen calls him up sooner, which I heartily wish may not ; for I really think the great load of business which lies on his shoulders has fatigued him of late more than usual, and the melancholy situation of affairs has made him more low spirited than he is apt to be. I hope a few days quiet in the country will set him up again, but if he is obliged to continue in town the whole summer, as was his lot the last, I dread the consequences of it to his health. It gives me some concern to reflect on the late hours he keeps at Cabinets. He has been engaged of late in consultation with the Scotch lawyers about a bill for regulating the Highlands and preventing that country's from being for the future a nursery for rebellions. They say some scheme of that kind will be brought into

¹ Mirabelle de Gordon, the French engineer, a ridiculous drunken personage who failed in everything he attempted.

Parliament soon after the holidays; for my part I believe the Duke to be the best political Doctor in this case....I hope you will send up a cargo of the rebel manuscripts, and then such book worms as myself may have something to feed upon. The whole history of this rebellion is so strange a one, that whatever tends to clear up one's ideas of it must be very acceptable. For my part, now it is over, I am like one waked out of a hideous dream : the weight of horror is still upon me but I doubt the reality....

The Bill of Attainder is passed both Houses ; a day is given to those included in it to take their trials (I think six weeks). If they do not come in, they incur the penalties of the Act. Some of the witnesses were true Scotch and would scarce speak out. It is high time the prisons were exonerated of the vast numbers they contain and that the executions were got over, before this spirit of resentment cools ; I assure you a contrary one begins already to show itself. The rebel Lords will be tried by indictments. I doubt the great offenders will escape ; but if they could be met with by the way and sent to the bottom, 'twould be the best of all. 'Tis, I am sure, no breach of humanity to wish the extirpation of villains who have brought such a scene of distress on their country, and all Europe besides.

Yours, dear Joseph,

PH: YORKE.

[H. 15, f. 128.]

[Writing on May 22, 1746, to Philip Yorke from the camp at Inverness, Col. Joseph Yorke announces the march of the forces into the mountains the next day.] I, who had had the honour and satisfaction of observing the whole progress of H.R.H.'s conduct [at Culloden] and the most minute step[s] that led to that happy event, scarcely knew how to doubt of it ; though the stories that were propagated all around one, and the wicked methods that were taken to intimidate people, were enough to stagger anybody. Thank God it turned out as it did, and I hope His Royal Highness will still render the consequences more glorious. [The Pretender had gone off in a boat to the Isle of Lewis and was not likely to come back. The number still in rebellion was about 1300.] The Chiefs have persuaded them that there would be no further search after their persons, that it would be impossible for the troops to get after 'em and that their Terror, the glorious Duke, would be ordered to Flanders and think no more about 'em. The truth of all this they will find it difficult to make good when our Red Coats appear in the heart of their country ; nor will all my Lord Lovat's absurd cunning (who is at the head of this after game of rebellion) be able to prove our absence when our bayonets glitter in their eyes, or are buried in their bodies. They have no meal for love or money in the country ; their only support is cattle, the blood of which dried they make use of as bread....

*Col. the Hon. Joseph Yorke to the Hon. Elizabeth Yorke
(afterwards Lady Anson)*

[H. 39, f. 14.]

CAMP OF INVERNESS, May 22nd, 1746.

...Were you in this country at this season of the year, you would leave off face painting and draw nothing but landscapes. To be here only for 2 or 3 hours in a day, without knowing it was Scotland or seeing the nasty houses of the country and the more nasty vermin that inhabit 'em, would not be unentertaining to anybody. The variety of prospects, all romantic, that the eye takes in at one glance, is something one is not used to in England, where nature smiles for ever gay; but here the scene is diversified with wide, dreary wastes of barren moor, thinly spread with miserable cabins, bounded, as it runs near the sea or rivers, with open fields of green corn and gentlemen's houses (the only spots where one has the pleasure of seeing any trees but the dismal Fir). This continues for many miles till the eye, carrying its sight over fine, green hills covered with sheep and oxen, is at last lost in an innumerable quantity of black mountains whose tops are covered with snow all the year round. The fleet riding at anchor near the shore, and the army encamped in the plain, don't take away in the least from the beauty of the prospect. Don't from this think me grown fond of anything I see here, for I am further from it than ever; but I won't promise...that I mayn't grow romantic....

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 230.]

CAMP OF FORT AUGUSTUS, May 26th, 1746 at night.

MY LORD,

We marched from Inverness the 23rd and encamped at a small village called Doores, at the east end of Loch Ness; and the same night at one o'clock we struck our tents in order to have as much of the cool air for part of our march as we could, and arrived after a very fatiguing one at this place, the 24th, at 5 in the evening. To us poor Lowlanders, that are not used to inhabit barren rocks, the sight of such barren rocks and precipices was quite uncommon and well worth seeing once in one's life, but not more. Marshal Wade's¹ road is very curious, and without it I hardly see how it could be possible for troops to march in any body.

Major General Bland, who had been detached from Inverness with a brigade eight days before H.R.H. left it, sent a body of 600 regular foot and all the Highlanders under Lord Loudoun to attack the Rebels, who were about Lochiel's house in Lochaber, at

¹ See p. 255 n.

the west end of Loch Arkeg. Lord Loudoun divided his people into two bodies in order to surround the Rebels, but appearing sooner than Col. Howard, who marched the other way, gave the alarm to the Rebels at a mile or two distant, who immediately stood to their arms ; and on the approach of the troops, after firing a few shot cross a river, took to their heels and fled to the mountains. Col. Howard, who was to have come behind 'em, fell in with a few of the rear and made an officer and 10 men prisoners. The whole was about 300, mostly Camerons. Lochiel was carried off and with him went Murray the Secretary¹, the two Barisdales and one Kennedy, a French officer. The Pretender's son was said to have been there likewise and to have fled with them. It is said he has been afraid to put to sea on account of the men at war ; how he means to get off I don't conceive. Yesterday the Camerons sent to Lord Loudoun to desire they might bring in their arms and submit to the King's mercy, which they pretend they would have done before but were prevented by Lochiel ; 140 of the McPhersons brought in their arms this morning.

The detachment that marched into Lochaber has frightened the country out of their wits, because they thought themselves not accessible to Red Coats ; but they will find their mistake. We get great quantities of cattle and burn and destroy some of the country, but I hope we shall destroy much more ; was it left to me I would not trust one of the Highlanders, for they seem inclined to screen ; and our soldiers, I will answer for it, have no inclinations that way, and can climb the rocks as well as they.

I hope this country will soon be quiet again and obliged by force to remain so ; the weather is extremely fine at present and makes things go on smoothly ; we are in the heart of the vile race now, and I wish were to extirpate.

...

I have the honour [etc.]

JOSEPH YORKE².

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 130.]

CAMP OF FORT AUGUSTUS, June 3rd, 1746.

DEAR BROTHER,

This country begins to feel a little the consequences of entering into an unprovoked rebellion, and from a very full conviction, no less than fire and sword, are, I believe, persuaded that the King can, whenever he thinks proper, march his troops into the remotest parts of the mountains and punish 'em as he sees fit. This is a truth they never experienced before, because nobody but one of the Duke's rank and honesty could, or would, stand the clamour that a just severity must raise against him.

¹ p. 547.

² See also f. 228.

I am inclined to think that our work here will be pretty soon finished, though it must be confessed that these rascals die hard and force even-handed justice to return the ingredients of their poisoned chalice to their own lips with more rigour than might otherwise have been their lot, had they made their submissions in due time.

The method taken with those who delivered up their arms, either to the ministers of the different parishes or the officers of the army appointed by H.R.H. for such service, is to register their names and places of abode, to make the whole of the clan answerable for each particular, and on the non-appearance of any one, the rest to forfeit everything. On these terms they are permitted to stay at home till the King's pleasure be known in what manner they shall be disposed of, without any promise or intimation given 'em that mercy is designed 'em. Such as do not submit on these conditions, are pursued and put to the sword as rebels in arms, their cottages and husbandry gear burnt and all their cattle drove away and disposed of. Numbers have endeavoured to get off by giving in a few old arms and shuffling from day to day, in hopes that the army might be called away and leave 'em; but they found the contrary, for as a day has been limited to most of 'em for their submission, on failure of the time, military execution has been enforced. [Macdonald of] Glengary is an instance of this, who staid at home himself but sent out his son. He was killed at Falkirk. The mother then sent for a boy of 12 years old from school and sent him out at the head of the clan, who refused to march without a chief. After Culloden the father came to Inverness and desired that his people might bring in their arms, which was granted him and his own behaviour winked at; but as his promise was not fulfilled in due time, his house was burnt to the ground and his estate laid waste. This method is pursued at present, and H.R.H. seems so well *au fait* of what he is about that I have heard him say, that if hereafter the King should say to him that he wanted any particular clan transported or done anything else with, he would engage to deliver him up that clan entire without meddling with the others. [He then proceeds to describe the various movements for suppressing the rebel Highlanders]. . . There was these words in an intercepted letter from a Rebel, wrote a very few days ago, "Glengary may thank himself for the ruin that has overtaken him; . . . for he (meaning the Duke) is a young man not to be trifled with."

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 232]

CAMP OF FORT AUGUSTUS, June 5th, 1746.

MY LORD,

Affairs in this country seem to grow more settled every day; the vigour, with which H.R.H. has carried this scouring of

the hills through, has quite confounded the Rebels. They foolishly imagined that the Duke would be contented with the honour of his victory and leave the after work to deputies, and from that idea trifled with him for some time since the battle. They now find, to their cost, that he had too much resolution and disinterestedness to do his business by halves.

McDonald of Glengary failed in his time of delivering up his arms, and has accordingly suffered for it; for his Castle is blown up and his estate laid waste; and what adds to his disgrace and folly, he is forced to comply with the surrender of arms notwithstanding, and brings in his clan to-morrow to this place.

We shall know, I believe for certain, in a day or two, what is become of the Young Pretender. The last account I had of him was that he went from the north-west coast in a 12 oared boat to the South Isle of Vest [Uist], which is twelve leagues of sea; from thence he went, on some intelligence of a ship, 20 leagues more northward to the Long Island called Lewes, but not finding what he expected, he returned to Vest, and lay concealed in a forest belonging to McDonald of Clanronald, where he was supplied with provisions from a farm of Clanronald's in that country. Thus far he was track't, and the militia companies from the Isle of Skie are sent thither to hunt him. The men of war, which are cruising between the mainland and the Isles, may be assistant to them in their search. One circumstance makes, I think, for his escape, that a vessel loaded with meal came to Barra, and instead of unloading in small quantities as was the custom, had put the meal on shore in a great hurry and was preparing to sail again immediately. On board of this vessel 'tis highly probable his Pretending Highness may get away. Next post we may [be] able to give more certain accounts. Sullivan¹ is the only companion of his flight, tho' some say Sheridan² is likewise with him. The most inveterate clans begin to grow extremely weary of the condition they are in, and will be forced to submit in spite of their inclinations to the contrary. The detachments of Lord George Sackville etc.³ are not yet returned from their expedition, but they have ranged pretty thoroughly the boasted inaccessible country of Lochaber; a few days will bring 'em home again. Lochiel attempted to make his escape time enough to get off in the French ships, but was too lame to effect it: our parties are now upon the scent of him.

In our march southward I hope to pay a visit at Taymouth, where Lord Glenorchy still is and in perfect health. We shall please him, I believe, with ferreting out the McGregors, who have

¹ John O'Sullivan, of Irish extraction, colonel in the French service; accompanied Prince Charles as Adjutant and Quarter-Master-General.

² Thomas Sheridan, son of Thomas Sheridan, secretary to James II; tutor to Prince Charles whom he accompanied to Scotland; died at Rome, whither he had escaped after Culloden, in 1746.

³ Third son of the first Duke of Dorset; held at this time a command in Scotland as Colonel of the 20th Foot, later notorious owing to his failure at the Battle of Minden.

been absurd enough to be refractory with the rod over 'em. They are old enemies of the Campbells.

The weather has been very indifferent of late, and I don't see much likelihood of its mending. We keep our healths, however, and that's the main point, especially as our conveniences are very indifferent....

JOSEPH YORKE.

Lord Glenorchy to the Hon. Philip Yorke

[H. 103, f. 38.]

TAYMOUTH, June 8th, 1746.

DEAR SIR,

...There is about 20 miles from hence a set of men called Macgregors, who have had the insolence and folly to continue in arms to the number of about 200. They keep together in small bodies and wear white cockades. I sent some emissaries amongst them to dispose 'em to submit to the King's mercy and deliver up their arms, which they seemed disposed to do until the Protest appeared in public¹, and their leaders (who expect no pardon) persuaded them that those Lords, who opposed the Court measures, were attempting to foment disunion, the effects of which they would soon see. The poor, ignorant people gave entire credit to what was told them, and still continue in a state of rebellion....

Lord Glenorchy to Col. the Hon. Joseph Yorke

[H. 83, f. 102.]

TAYMOUTH, 17th June, 1746.

...Several of the Rannoch people, who brought their arms to me, came here to-day complaining that, notwithstanding they had complied with all that was ordered them, the troops have carried away their cattle. I told them they knew very well I had made them no promise of any kind, and that I only received the arms they brought me and gave them receipts for them. They owned this to be true, but said they expected to find mercy after having submitted themselves to it, and that they are ready to do anything ordered them or take any oaths required of them, and that if the soldiers take everything from them, so that they must starve, they may take their lives too. I said no more to them. In my humble opinion, the country would be sooner quieted if a distinction were made between those who produce certificates of having delivered up their arms and those who do not....

¹ The protest of some few Lords of the Opposition, May 2, 1746, objecting to the war in Flanders.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 236.]

CAMP OF FORT AUGUSTUS, July 2nd, 1746.

MY LORD,

...All honest people are in great hopes that the Legislature will make a noble effort to root out rebellion from this corner of the Island; though some, that your Lordship knows, are in some apprehensions that the new laws will be whittled down to nothing before they are past the Parliament. The person I mean is General Huske¹, who (with his most respectful compliments) desired I should say as much to your Lordship in his name. He added further, amongst many things, that though, to be sure, the suppressing of non-juring meeting houses was a very essential thing, yet unless the whole power of chiefs over their clans was taken away, the rest would signify very little and that those, who were most interested in such superiorities or clans, would make a great deal of stir and bustle about the minuter things, in order with a better grace to oppose the more considerable; for my own part, I depend much on those, whose interest it is to abolish such abuses, for the carrying effectual laws thro' with vigour....

One of our parties last night brought in one Hugh Frazer, secretary and factotum to Lord Lovat. He was sent out with the clan as a governor to his son; at Culloden he was shot through the arm and has lived without any assistance in the mountains ever since, having been obliged to give himself ease 3 or 4 times by making incisions in his arm with a penknife; on the approach of the party (which was of Kingston's Horse) he was carried out of the house, where we had intelligence he was hid, and by a hand litter was conveyed to a cave in a rock, the people who carried him out running away in hopes to deceive the soldiers; but the officer, imagining they fled with some such view, examined all the holes in the mountains and found him. Though its near three months since the battle, the man has never been dressed by a surgeon. To what a time have Highlanders lived, that even the Light Horse can gallop up and down their mountains at pleasure....

...

JOSEPH YORKE.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 134.]

CAMP OF FORT AUGUSTUS, July 5th, 1746.

DEAR BROTHER,

...H.R.H.'s stay in this country so long has certainly put the Jacobites quite out of their play, and prevented their taking such

¹ John Huske (c. 1692-1761) had distinguished himself at Dettingen and again at Falkirk, where he managed the retreat of the King's forces, and at Culloden where he commanded the second line; served later in Flanders; Lieutenant-General 1747; served at Minorca 1756; Governor of Jersey 1760; much beloved by the soldiers by whom he was nicknamed "Daddy Huske." See p. 550.

measures after their defeat as would have embarrassed the government, though not endangered it. The frequent parties, that have ranged the most distant parts of the hills, drove the Rebels, who had taken a shelter in these places, to despair, insomuch that numbers have chose rather to be taken than lead that miserable life any longer. It was partly to this that we owed the taking of Murray of Broughton¹; for finding that the troops left literally no stone unturned to catch him while he stayed in the mountains, [he] thought it better to fly for protection to his friends in and about Edinburgh, and accordingly got safe to his sister's house within about 15 miles of it. The horses of St George's dragoons were at grass at Dunse, not many miles from the house, and the sergeant who attended them with a guard of 18 or 20 men, having got intelligence by the means of a little boy that Murray was arrived, without acquainting any person with the news, took 12 dragoons and got to the house at one o'clock in the morning. On his arrival he surrounded it, and then demanded Murray. The lady of the house had, however, the courage to appear and denied his being there. That denial, you will easily believe, did not satisfy the sergeant, who insisted on searching the house, and accordingly found the bed warm that he had just left and his breeches still there, with 100 guineas and 2 gold watches, and following the scent, found him standing on the top of the stairs with a pistol in his hand; but on sight of the Red Coat, his courage forsook him, the pistol dropped and he was made prisoner. The sergeant mounted him before him immediately, and delivered him safe at Edinburgh Castle before 8 in the morning. He is a great prize, and if made to squeak, is more able to unravel the mysteries of the Rebellion than anybody. I hear he pretends stupidity and declares that, as he knows the worst of his fate, he won't make discoveries. I must confess in cases like these, where whole communities are the sufferers, I wish the rack were applied. H.R.H. has ordered him up to town directly....Amongst the papers, which have fallen lately into our clutches, we found the treaties between the Pretender and the French King, ratified on both sides and promising mutual assistance, but never were seen such curious cobweb pieces; the Pretender, you may easily conceive, could not promise much for the present; the French King feeds him with the hope of effectual succour, but in their instructions to their ambassadors and officers it is pretty plain they never meant to give it; for the whole scheme seems what I find expressed by themselves, *alimenter la rébellion*, and it was therefore contrary to all their views that the Rebels hazarded the Battle of Culloden....

The bills for regulating these parts of the Island don't seem to go on smoothly enough to please my palate, which relishes nothing but your plain dishes. I hate all *petit[s] plats* and Scotch dishes;

¹ John, later Sir John, Murray of Broughton (1718-1775), secretary to Prince Charles, was captured at the house of his brother-in-law, Mr Hunter of Polmood, Peeblesshire, and afterwards turned King's evidence.

I have a downright English stomach and such cookery won't go down with me. If those who pretend to be the King's friends here, won't give up that power for the common good of the nation, which they could not, or, which is worse, would not, employ for that purpose in times of distress, we shall, some time or other, have the same game to play over again....

We are still hunting for the Young Squire....

JOSEPH YORKE.

H.R.H. the Duke of Cumberland to the Lord Chancellor

[H. 1, f. 8.]

FORT AUGUSTUS, July 17th, 1746.

MY LORD CHANCELLOR,

I return many thanks for your kind letter in respect to the summons of the House of Lords. Nobody can take occasions of making a flattering, obliging compliment as you do, nor make use of it in that manner. I can assure you, my Lord, that they please much anyone that knows the person they come from. I can only say in return that Colonel York will be in town soon, and has taken every occasion to improve himself and of being useful, which he has fully succeeded in.

I remain,

Your affectionate friend,

WILLIAM.

Earl of Dunmore¹ to the Lord Chancellor

[H. 98, f. 98.]

HANOVER SQUARE, July 17th, 1746.

MY LORD,

I have the honour of your Lordship's of yesterday, for which I desire to return you my most sincere and hearty thanks. I assure you, if my brother², who deserves whatever punishment the Law would inflict upon him, was the only person who was to suffer by his conviction, I should be very unwilling to intercede for him; but as his innocent children, as well as myself, must be involved in his unhappy fate, I flatter myself your Lordship will honour me with your countenance and protection.

If I am rightly informed, the grand jury is summoned for Monday next; and unless your Lordship will be pleased to give directions to Mr Sharpe, I am afraid a bill of indictment will be found against him, which would defeat all the hopes I have....The favour, which I most earnestly beg of your Lordship, is that my

¹ John Murray, second Earl of Dunmore.

² William, tried for high treason the same year, pleaded guilty and was pardoned. He became third Earl on his brother's death in 1752.

unhappy brother may not be in the next class of prisoners against whom bills of indictment are to be preferred. I shall look upon it as the highest obligation and shall always remember it with the strongest sentiments of gratitude. I am with the greatest respect, my Lord, your Lordship's most obedient and most humble servant,

DUNMORE.

Col. the Hon. Joseph Yorke to G. Burnett on an application to solicit the Lord Chancellor for the pardon of John Burnett of Campfield¹.

[H. 83, f. 113.]

CAMP OF FORT AUGUSTUS, July 17th, 1746.

...I have so good an opinion of Mr Burnett's good sense and knowledge of the world that I shall deal as frankly with him, as I should wish everybody did with me, and shall therefore leave it to yourself to reflect whether, in the station of life I am in, it would at all become me to apply, either directly or indirectly, in behalf of these Rebels, to the person who, it is supposed, by the office he holds under the King, will have a considerable share in the adjudging their fates....All that I know of Mr Burnett of Campfield, my father knew as long ago as when I returned from Carlisle; and I am sure he would think I acted very improperly, were I to hint in any manner to him that I had received solicitations for the saving anybody. What is right, I hope and believe, will be done; and if mercy is shown, His Majesty will, by his informations, I hope, be enabled to bestow it properly, though I am convinced in my own mind that it will have no other effect on the persons receiving it than it has hitherto had....²

Lord Glenorchy to the Hon. Philip Yorke

[II. 103, f. 44.]

TAYMOUTH, July 24th, 1746.

...The Duke came here Saturday night at 10 o'clock and set out next morning at 8....There were above 140 persons and as many horses. They were all lodged and their bellies filled with meat and drink. The Duke walked a little in the morning and seemed to like this place. I was sorry to see him so fat; he is a good deal more so than when I saw him at Perth going to the North....General Bland passed here last week with 2 regiments. He and some other officers dined with me. They carried Lord Lovat with them in a litter covered with a blanket, like the tilt of a boat, and were to send him in a coach from Stirling to London. ...I was very glad to see the Colonel not in the least fatigued with all he has gone through....

¹ Captain of Artillery in the rebel service, taken prisoner at Carlisle; he was found guilty but reprieved. *Scots. Mag.* viii. 539; ix. 44; II. 522, f. 121.

² For another similar application to Lady Hardwicke, II. 39, f. 35.

General Huske to Col. the Hon. Joseph Yorke

[H. 83, f. 128.]

EDINBURGH, Sept. 17th, 1746.

DEAR SIR,

Your favour from Wimpole of the 21st of last month I am much obliged to you for, and am sorry to find justice is not likely to take place, nor truth approved of, which has been our misfortune for many years where this country is concerned; and that begins to appear here in many instances, as they see the most wicked as likely to meet with indulgence and protection. Nothing shall prevent my speaking truth where I think the King and public is concerned. I have lived to see two great Rebellions, all owing to misconduct in not believing truth when told, but giving way to servile, false flattery to serve a turn of a day. I must own I am much concerned to see some people's ways of acting, so contrary to their own interest and principles they've ever profest....I wish some of the King's lawyers would look to see the bills past in Ireland, after the Revolution, for the quiet and peace of that country. They were obliged to come to extremities by offering certain rewards for the head of a Raperie, I think it was £5, which brought in many a one and put an end to Rebellion; and at this time upon certain outrages, they proscribe and make quick justice whenever they take any of those people. Such laws in this country for a year or two, I believe you will agree with me, would do good; for without extremities they will never submit, but continue as rebellious as ever....My most humble respects to Lord Chancellor and Lady York. I hope his Lordship will have some respite from business and that he will enjoy the country when he can. I am with truth and esteem, dear Colonel,

Ever most faithfully yours,

JOHN HUSKE.

...
[Another letter, f. 136.]*Lord Chancellor to Lord Arniston¹*

[H. 98, f. 262.]

POWIS HOUSE, March 26th, 1748.

MY LORD,

I think myself extremely obliged to your Lordship for the very useful information you have been so good as to give me in your letter of the first instant, relating to the bill for the more effectual trial and punishment of treason in the Highlands². If it

¹ Robert Dundas (1685–1753), a member of a famous legal family of Scotland, a friend and frequent correspondent of the Chancellor and made by his influence Lord President of the Session this year. G. W. T. Omund, *Arniston Mem.* 99 sqq.

² Above, p. 536.

had been possible for me to have received those hints before, the bill might have been more perfect; but without mentioning your Lordship's name, I have extracted the most material parts of your paper and put them into the hands of Mr Attorney General, to the end that proper amendments may be made in the House of Commons. One thing I soon discerned ought to be added, viz: that the Crown should have the election of indicting and trying, either by special commissions of oyer and terminer or in the Court of Justiciary at Edinburgh, and that when the indictment and trial is in the Court of Justiciary at Edinburgh, the juries might be summoned out of some of the Lothians....

[On September 3, 1748 (H. 98, f. 292), the Chancellor writes instructing the Lord Advocate of Scotland¹ how to proceed in the indictment of rebels excepted from the Act of Grace, and urging the necessity of procuring convictions of the guilty.

On October 11, 1748 (H. 98, f. 308), the Lord Advocate writes:] I beg leave to give your Lordship joy on the first fruits of your late statute for the more effectual trial of high treason in Scotland. You have by that, I find, rendered it practicable for the Crown to obtain justice in this country against traitors. My reason for so concluding is that yesterday and this day a grand jury of 23 gentlemen of the shire of Edinburgh and two others adjacent have found bills of indictment against fifteen persons excepted in the Act of Grace, being the whole bills yet preferred to them.

[In a subsequent letter (f. 310) he states that the grand jury have found 42 bills and refused 13, the latter really through defect of evidence.]

Lord Chancellor to the Duke of Newcastle at Hanover

[N. 32, f. 159; H. 62, f. 44.]

Powis House, Oct. 21st, 1748.

...I flatter myself that the success of the proceedings in Scotland against the excepted Rebels, will be very agreeable to your Grace. It is entirely the good effect of the Act passed the last session of Parliament to enable the Crown to prosecute for high treason in any county in Scotland, with the other new provisions thereby made: and the proceeding being carried on in the Court of Justiciary at Edinburgh has been attended with no extraordinary expense to the Crown, besides that of sending one clerk to the Crown-office from hence. Lord Tinwald² and the Advocate³ have

¹ William Grant of Prestongrange, appointed Lord Advocate in 1746; M.P. for Elgin Boroughs 1747; raised to the Bench 1754; died in 1764.

² Charles Erskine (1680-1763), son of Sir Charles Erskine, appointed Lord Justice Clerk in June this year.

³ Robert Craigie, Lord Advocate.

behaved very ably and zealously. For my own part, I do most heartily rejoice in this, as what will tend more to the security of his Majesty's government against treasonable practices in that part of his Kingdom, than anything that has been done since the Union; for which reason I have laboured incessantly to set those prosecutions on foot ever since his Majesty left England. The supposed impracticability of such prosecutions in that country was the enemy's fort, and this is routing them in their head-quarters. The bill against Sir James Stewart of Goodtrees¹ is found, which is more material than any of the rest. It was the most doubtful case upon the evidence, and there was a prodigious struggle to screen him².

Rev. Thos. Birch to the Marchioness Grey

[H. 49, f. 196.]

LONDON, July 29th, 1749.

...Your Ladyship has probably heard of a paper handed about here by the Jacobites, in order to raise horror against the supposed cruelties practised by the Duke's army after the battle of Culloden. I have at last procured a sight of it, which in substance is that John Fraser, ensign of the Master of Lovat's regiment, being shot through the thigh by a musket ball at that battle, was carried to Culloden House, where a multitude of other wounded prisoners lay under strong guards; that they continued there with their wounds undressed for two days, and on the third he and eighteen more, all gentlemen, were carried out in carts to the park dyke at some distance from the house, where the soldiers who guarded them, under the command of three officers, placed the prisoners close to the wall and then fired amongst them. Mr Fraser fell with the rest and did not doubt but he was shot; but the soldiers examined them and knocked out the brains of such as were not dead; and observing signs of life in him, one of them with the butt-end of his gun struck him in the face, dashed out one of his eyes and beat down his nose flat to his cheek and left him for dead. Lord Boyd passing afterwards by and seeing life still in him...caused his servant to convey him to a certain mill and cot-house, where he was concealed, taken care of and recovered. Mr Etough, the most indefatigable Whig in England, has now furnished me with an absolute confutation of this most improbable story from the mouth of Mr Campbell of Calder, son of the Lord of the Treasury, and

¹ An active Jacobite, brother-in-law of Lord Elcho, employed by the Prince in negotiations at Paris.

² The Duke writes from Hanover, October 30: "I never saw the King more pleased than with the success in Scotland and he told the ministers here of it, upon my sending your Lordship's letter. He knows to whom it is owing. He seem'd extremely pleased with your Lordship." H. 62, f. 68.

Capt. Kinnier of [?] Dyer's regiment. The Captain received in the battle a very bad wound of which he is not yet recovered. He was carried to Culloden House immediately after the action, and remained there fourteen weeks. He avers that to his certain knowledge none of the *wounded rebels* were carried to that house, that only *a few* of the *common soldiers* of the Rebels were there and two sergeants, but *not one ensign*, nor any of the superior rank. He adds that not one of these had received any hurt and that they did not remain in the house above *two hours*. Mr Campbell spent a great part of last, and some part of this year, at Calder, which is but seven miles from Culloden, and agreed with the Captain in this account¹....

Duke of Newcastle to the Lord Chancellor

[H. 64, f. 77; N. 42, f. 31.] Private.

HANOVER, *April 29th 1752.*
May 10th

MY DEAR LORD,

I will begin with acquainting you with what I am sure will please you. I have done Lord Breadalbane's business, though with great difficulty and hearing as many disagreeable things of myself and my friends as could well be said. However, I was resolv'd to speak out and it did the business....I...gave him [the King] your *ostensible* letter, which he read pretty quick through, and said, "you are (all of you) always for recommending your own *creatures*," with very hard expressions against Lord Breadalbane; that he thought him a Jacobite, but that we never minded that, if the person was a creature of ours. I told him I was persuaded that if your Lordship did not know him to be zealous for his Majesty's government, no relation to you would make you espouse him; that my Lord Breadalbane was very considerable in Scotland, had a great estate in Staffordshire where friends were wanting, had great alliances in England and, I verily believed, not one Scotchman thought anybody could stand in competition with him upon this occasion on account of his consequence; that if he had no relation to your Lordship, I should say the same thing, as thinking it for his Majesty's service. The King having given me an occasion, I told him plainly, talking upon your subject, that if any accident happen'd to your Lordship, his Majesty and the nation would feel it, in the House of Lords and in his Councils where you had the greatest weight and influence, which, his Majesty knew, you always exerted in support of his measures, foreign and domestic. This I found struck him, and he had recourse to our recommending our own creatures with an insinuation as if, in this instance, we wanted to increase our power in the House of Lords. I told him plainly your Lordship had none there but what your

¹ See this report, D. Forbes, *Works* (1809), p. xiv, and reproduced as a *fact* by G. W. T. Omund in *The Lord Advocates of Scotland*, i. 364. See also f. 27.

own weight gave you. I then unluckily said, that I believed Lord Cathcart¹ himself would not think it extraordinary if Lord Breadalbane should be prefer'd to him. To which H.M. replied with eagerness: "It is a fine thing indeed," or to that purpose. "To which, do you think, I would give the preference, to one who is attach'd to the Chancellor and you or one who is attached to my Son?"... You see from what quarter all this comes: you see, you have as great a share in it as anybody; you see, therefore, that your most inoffensive, decent, proper, respectful behaviour signifies nothing. I make this observation only in justification of my own conduct. For you know some friends of mine would have had it thought that my improper behaviour had brought upon me the resentment of a certain quarter....I have been at Court since writing w[ha]t is above. H.M. has been pleas'd to abide by what he ordered yesterday, but was in very bad humour, and for the first time this season did not speak to me in public afterwards*.

Lord Chancellor to the Duke of Newcastle

[N. 42, f. 82; H. 64, f. 87.]

Powis House, May 5th, 1752.

MY DEAR LORD,

I am honour'd with your Grace's letter of April 29th
May 10th, by which you have in the kindest manner acquainted me with His Majesty's gracious approbation of my Lord Breadalbane² to succeed the late Earl of Dunmore as one of the sixteen peers of Scotland. If it would not be giving the King too much trouble, I would presume to beg of your Grace to lay me at His Majesty's feet and humbly to assure him of the most dutiful and grateful sense which I shall ever retain of this repeated instance of his royal goodness in condescending to my request—a request which no relation or attachment to me should ever have induc'd me to make, if I had not been sure of my foundation in his Lordship's sincere zeal and affection to His Majesty's person, family and government, and that his conduct would verify and support everything that I have

¹ Charles, ninth Baron Cathcart, in the Scottish peerage (1721-1776), one of the Duke of Cumberland's aides-de-camp.

* N.B. It is singular enough that after such severe things said of Lord Breadalbane, the Duke of Newcastle does not appear to have asked what foundation there was for them. The prejudices had been infused by the Duke [of Cumberland], God knows why. II. [See vol. ii. 46 sqq., 118.]

² Lord Glenorchy had become Lord Breadalbane by the death of his father, February 23, 1752, in his 90th year.

advanc'd on that subject. If in any one part of His Majesty's political service, I have taken more pains than in another (and that perhaps a little out of my ordinary sphere of action), it has been for subduing the spirit of rebellion and disaffection, and in particular the Highland power, in Scotland. I never had anything more at heart in my life, being persuaded that it is a point essential to the stability of his Majesty's government and the quiet of the whole Kingdom. For this your Grace knows I have, in conjunction with yourself, incur'd the open resentment of some, and the latent disinclination of others, who may be supposed to be friends to that Highland power. I have not been us'd to act an inconsistent part, and no consideration upon earth should prevail with me to recommend a single person to the King for any trust whatsoever, if I was not thoroughly convinc'd that he was firm in those principles....

I am with the greatest truth [etc.]

HARDWICKE.

[The above is the *ostensible* letter, to be shown to the King. In a private letter (N. 42, f. 84) the Chancellor declares that, had he thought it would have caused so much that was disagreeable, he would not have meddled in the matter.] To be suspected or reproached in a case in which, if any people in the land are untainted and free from suspicion, 'tis you and I, is cruel.

[In a private letter from Hanover of May ^{13th}_{24th}, 1752 (N. 42, f. 166; H. 64, f. 95), the Duke of Newcastle refers to the same subject:] I thank you for the kindest private letter that ever was wrote, and the wisest and most *manly* ostensible one which ever was shew'd. I sent it immediately with the post to the King. I own it was with fear and trembling; for few people like to be put so much in the wrong as that letter did *somebody*. However, the effect was quite different from what I expected. The humour has been visibly better ever since. No mention has been made to me of the letter nor did I think it was my business to talk about it. I left it to operate and I am persuaded it has had an effect¹.

[On May 15th (N. 42, f. 180; H. 64, f. 99) the Chancellor dwells on the injustice and absurdity of the objections made to Lord Breadalbane, adding:] Your Grace says truly that it is plain from what quarter this comes. For all this is not *tanti* for the sake of this particular Lord. It is part of the general plan. I never was so weak as to imagine that what your Grace calls my *decent*,

¹ Also N. 42, f. 168, D. of N. to H. Pelham to the same effect.

inoffensive behaviour would produce any material effect in that quarter. All I ever meant by it was to do what was right and becoming for myself. I know full well that, whilst one adheres to one's old friends and connexions, the rest will have no merit. But that will work no change in me....

Lord Chancellor to the Duke of Newcastle

[N. 42, f. 406.]

June 12th, 1752.

MY DEAR LORD,

...As I am forced to write my letters at such *horae subsecivae* as I can get, the other sheet (f. 402) was wrote before I went to Court yesterday, the King's accession day....As I had not been at the Duke's Levee for a vast while, I went, after the Drawing-room was over to that side in order to make my bow to H.R.H. in his ante-chamber before he retired. I found there only my Lord Sandwich, Lord George Sackville and some of his own servants in a kind of circle. After a very few words he asked me if I wanted to speak with him, to which I answered, No, only to pay my duty to H.R.H. there, which I had not had an opportunity of doing for a great while. He said immediately, "But pray, my Lord, walk in," and went into his Closet. H.R.H. then began upon the barbarous murder of Campbell of Glenuir¹, and asked me if I had seen the last letters from General Churchill and said he thought they had taken very right measures to find out the villains who had committed it. I said I had seen them, and thought that both the civil and military officers had done their duty extremely well, and exerted themselves very diligently to bring the offenders to justice. The Duke then said that a murder of the like kind had been perpetrated after the Rebellion in 1715 upon a factor on the Seaforth estate, and that no care had then been taken to bring the offenders to justice. I told H.R.H. that I had always been of opinion that there had been too much neglect in the management in Scotland after that Rebellion, but that since the Rebellion in 1745 great attention and application had been used, both in making new laws to reform Scotland and in endeavouring to put them in execution. To which he answered: "But it is necessary that care should be continued, and that the state of Scotland should be attended to;

¹ The assassination of Colin Campbell of Glenure, the crown agent of the forfeited estate of the exiled Jacobite, Charles Stewart of Ardshiel, on May 14, 1752, made a great sensation.

otherwise all that had been done would signify nothing, follow what plan you will."—I said that great pains was taking in enquiring and attending to it: that on the present occasion all possible orders had been given by the Lords Justices to discover and bring the offenders to justice; and if any others could be suggested they would be given....H.R.H. then said: "Nobody, who has spent their life here and not been in that country and seen their practices, can have any notion of them. There is no way to prevent such villanies without making the Clan answerable for them in some shape or other."... In the course of the conversation he said a good deal about the two brothers, Campbell of Barceldine and Campbell of Glenuir, the deceased. He owned his suspicions of them...and I think H.R.H. insinuated that it was the man's knowing he was suspected that had made him exert himself of late so as to bring this unhappy fate upon him¹. I asserted with firmness that I was sure my Lord Breadalbane was thoroughly persuaded that they deserved the characters he had given them; that the Scotch were apt to throw the Jacobite at one another sometimes maliciously, and with particular views. This he owned to be true...[and that he and his family had served on the King's side in both Rebellions]; that these were pretty strong proofs. This the Duke did not deny; but all I could collect from this part of his discourse was that it was meant as a kind of justification of the part H.R.H. had taken relating to those two gentlemen and their friends....

H.

[The news of the conviction of James of the Glen, as an abettor of the crime, sent to the Chancellor in October 1752 (H. 99, ff. 282–301), in letters from the Duke of Argyll who, as Lord Justice General, had presided at the trial, and from the Lord Advocate, was received by Lord Hardwicke with great satisfaction. He writes on October 11, 1752 (f. 284):] Criminals of this kind are seldom wanting in strong asseverations of their innocence, especially when the evidence against them consists altogether of

¹ His government of the estate had at first been mild and he had employed James of the Glen, later his supposed murderer, the illegitimate brother of Charles Stewart, the dispossessed owner of the estate, as sub-factor. Meanwhile Charles Stewart was still receiving his rents abroad and Campbell was informed by the authorities that more severe measures must be initiated. Several Jacobite tenants accordingly, among whom James of the Glen was included, were given notice to quit their holdings in 1751. There appears to be no foundation whatever for the D. of C.'s suspicions. See D. N. Mackay, *Trial of James Stewart*, 10, 345; and also *Atholl Corr.* (Abbotsford Club, 1840), 242, repelling the accusations.

circumstances ; but such proof is often more convincing than positive witnesses who, from corrupt reasons, may swear falsely. I hope the proper officers will take care that the prisoner be kept by himself, free from any resort of company and with low diet, which may perhaps at last induce him to confess his guilt and discover his accomplices¹. [Continuing, he urges the necessity of proceeding immediately with the cases of outlawry and the act for annexing the confiscated estates to the Crown.]

¹ See however D. N. Mackay, *The Trial of James Stewart*, where the innocence of the prisoner, who was executed on November 8 without making any confession, is argued.

CHAPTER XVI

TRIALS OF THE REBEL LORDS

THE prosecution of four of the accused persons, who were peers, became the occasion of a great state ceremony. The chief responsibility for the proceedings fell to the Chancellor, who received the White Staff, and was made Lord High Steward; and the trials of the Earls of Kilmarnock and Cromartie and of Lord Balmerino in July, and that of Lord Lovat in March 1747, were conducted with fitting observance and dignity in Westminster Hall. It was the first time that peers had been arraigned for high treason since the Act of William III regulating trials for this crime, and it was the last time in English history that peers appeared for judgment before the Lords to answer for a high political offence.

The ceremony observed seems to have been similar on the two occasions, although the three peers tried first appeared before the Lords upon an indictment for high treason by the Grand Jury of Surrey, while Lord Lovat was brought up upon an impeachment by the House of Commons.

Procession of the Lord High Steward to try the Rebel Lords¹.

At 8 o'clock in the morning, July 28th, the Judges in their robes of scarlet, the Chiefs with their collars, Master of the Rolls in his rich gown, the Masters in Chancery with Garter King of Arms, the Usher of the Black Rod and the Serjeant at Arms, waited on the Lord High Steward at his house in Ormond Street; Garter in his coat of the King's Arms, who, at his Grace's house received the Commission, Black Rod having the White Staff, and the Serjeant at Arms his Mace; the three last waited in an apartment, while the Judges went to the Lord High Steward to pay their compliments to His Grace. [The coaches of all these waited, in the street before the rails of the Court Yard, the Lord Steward's coach alone waiting within. This was a state coach, harness and six horses dressed. A coachman and postilion.

¹ *Gent. Mag.* xvi. 338, supplemented by H. 538, f. 266, Procession on Lord Lovat's trial, by John Anstis, Garter King of Arms.

Footmen in the whole retinue with his Lordship's arms, crest and coronet etc. My Lord's table for 10 served with his Lordship's own plate on a large carpet in the best room. The officers' and gentlemen's table for 20 served with china or pewter in the next room. A steward's table. A servants' table!]

After a short stay, his Grace came to his coach in the following order:

His Grace and 20 Gentlemen, who waited his coming at the bottom of the stairs, two and two uncovered, his Serjeant at Arms and Seal Bearer both uncovered, one with his Mace and the other with the Purse.

The Black Rod, with the Lord High Steward's Staff; and Garter King of Arms on his right hand in his Coat of Arms with the Commission, both uncovered. His Grace the Lord High Steward, in his rich gown, his train borne, followed by the Chief Justices and Judges.

His Grace seated himself on the hinder seat of the coach alone, Garter and the Seal Bearer on the other seat over against his Grace uncovered, Black Rod in the right hand side boot with his Grace's White Staff, and his Grace's Serjeant at Arms in the left boot with his Mace; his Grace's Gentlemen in the five leading coaches, and the Judges, Master of the Rolls and Masters in Chancery, followed his Grace in their own coaches. Constables, etc. as on the first day of Term.

His Grace thus attended, passed through Red Lion Square, cross Holborn, down Little and Great Queen Street, Long Acre, St Martin's Lane and King Street with the Judges etc. to the Old Palace Yard. The soldiers there rested their muskets and the drums beat as to the Royal Family.

Being come to Westminster, to the steps in Old Palace Yard which lead up to the House of Peers, at the bottom of which the Heralds, the eight Serjeants at Arms, with their Maces, waited his Grace's coming, the Constables divided and formed a passage from the coaches to the stairs foot for the procession. The following was the order:—His Grace's Gentlemen Attendants two and two.

Heralds.

Eight Serjeants at Arms two and two.

His Grace's Serjeant and Purse Bearer.

Garter and Black Rod.

Lord High Steward (his train borne)

Chief Justice of the King's Bench, Master of
the Rolls.

Judges, two and two.

At the upper end of the Painted Chamber His Grace's Gentlemen attendants divided and made a lane for the rest¹ of the procession to go through, and remained there.

¹ H. 538, ff. 149, 153.

The eight Serjeants at Arms did the same in the Lobby.
Garter and Black Rod, who left the Staff at the door, did the like below the Bar.

The Peers in their Robes, and the Mace deposited upon the uppermost Woolsack. His Grace, preceded by four of his Gentlemen Attendants, five Serjeants at Arms and Purse Bearer, passed on to the Lord Chancellor's room, where he put on his Parliament Robes.

His Grace, having stayed there a while, came into the House again and prayers began. Garter was called to the Clerk's Table; Clerk of the Parliament called over the Lords and Garter marked those that attended. Black Rod was sent to see if the Court in Westminster Hall and the passages to it were clear.

Procession from the House of Lords to the Court in Westminster Hall¹.

His Grace, the Lord High Steward's Gentlemen Attendants two and two—four Clerks of the House two and two—the two Clerks of the Crown bearing the Commission of the Lord High Steward—Masters in Chancery two and two²—Judges—Peer's eldest sons—Peers minors—Two Heralds, York and Windsor—Four Serjeants at Arms, with their Maces two and two—the Yeoman Usher of the House of Peers—the Peers according to their degrees and precedence, two and two (the youngest barons first), all covered, [Lord Privy Seal having upon his right hand the Lord President³]—Four Serjeants at Arms more, with their Maces, two and two—His Grace's Seal-Bearer and Serjeant at Arms—The Black Rod carrying the White Staff and Garter—The Lord High Steward alone, covered, his train borne—[His Royal Highness the Duke of Cumberland—The Prince of Wales³.]

The Lords being seated on their benches and the Judges and Masters in Chancery below on their seats, the Lord High Steward making a reverence to the State and saluting the Peers, seated himself on the Woolsacks as Speaker of the House of Lords. His Grace's Attendants went on the left side of the Throne, Clerks of the Parliament to the Table. Clerk of the Crown in Chancery stood before the Table, looking towards the State. Peers eldest sons and Peers minors on the right hand of the Lord High Steward's chair. The Serjeant at Arms attending the Great Seal went to the right side of the Clerks Table. Garter and Purse Bearer placed themselves on the left side of the Lord High Steward, the Black Rod on the right; behind them on either side the eight Serjeants at Arms and two Heralds.

The two Clerks of the Crown being ready at the Clerk's Table, and the Clerk of the Crown in Chancery, having the King's Commission to His Grace in his hand, both made three reverences to him, first at the Table, the second in the mid-way and at the

¹ See also *State Trials*, xviii. 540.

² The Attorney-General is placed here in the account in the *Gent. Mag.*

³ Omitted in *State Trials*, xviii. 541. They probably did not appear.

third, coming before the Woolsack, kneeled down, and the Clerk of the Crown in Chancery on his knee, presented the Commission to His Grace, who delivered it to the Clerk of the Crown in the King's Bench ; and they, making three reverences, returned to the Clerk's Table ; the Clerk of the Crown in the King's Bench opened the Commission and read it, having first directed His Grace's Serjeant at Arms to make proclamation for silence, which he did with his Mace upon his shoulder¹.

Then the Lord High Steward stood up and spoke to the Peers : " His Majesty's Commission is about to be read. Your Lordships are desired to attend to it in the usual manner ; and all others are likewise to stand up, uncovered, while the Commission is reading²."

While the Commission was reading, His Grace and the Lords stood up, all uncovered ; after which His Grace, making obeisance, reseated himself, and then Garter and the Black Rod, with three reverences, jointly presented the White Staff on their knees to His Grace ; then His Grace, attended by Garter, Black Rod and the Purse Bearer, making his proper reverences towards the Throne with the White Staff in his hand, removed from the Woolsack to the armed-chair upon the highest step but one before the Throne and, having seated himself, gave the Staff to the Black Rod to hold, the Purse Bearer holding the Purse on the left³.

The indictments against the three Lords having been read, the Lord Steward asked leave for the Judges to be covered, and the accused were brought to the bar by the deputy governor of the Tower, having the axe carried before them by the Gentleman Gaoler, who stood with it on the left of the prisoners, with the edge turned from them. The three Lords then approaching the Bar, made three reverences and remained upon their knees till the Lord Steward informed them that they might rise⁴. They bowed to His Grace and the House of Peers, their compliments being returned, and the commitment was read. The Lord Steward then addressed the prisoners. He pointed out that the indictment was as yet only a charge from which, if innocent, the law would be their protection. Upon the Law the Throne itself was established. It was the great bulwark of the property, the liberty and life of every subject, as it was of the privileges and honours of the Peers. With the whole body of the Peers of Great Britain as Judges,

¹ In the order of Anstis, the Clerk of the Crown in Chancery performs all this alone.

² *State Trials*, xviii. 541.

³ *Ib.* 512.

⁴ See the gruesome story told by Horace Walpole of George Selwyn, who, after having watched the undertakers stitching Lord Lovat's head to his body after execution, addressed the corpse, imitating the Chancellor's voice, " My Lord Lovat, your Lordship may rise." (*Letters*, ii. 272.)

nothing could have weight but evidence and justice. A fair and impartial trial was assured to them, but they must make use of all those means that were available for their defence, and they were reminded that they might have the benefit of the Statute of William III by which the aid of Counsel was allowed¹.

Lords Kilmarnock and Cromartie pleaded guilty; only Lord Balmerino declared himself not guilty.

The Serjeant at Arms summoned all persons that had evidence to give to come forth, and the Lord Steward asked leave to quit his Chair on the steps of the Throne and come down to the Table for the purpose of hearing better. Then His Grace removed to the Woolsack and delivered the White Staff to be held by the Gentleman Usher of the Black Rod who, during the whole Trial, always received and delivered back the White Staff upon his knee.

The trial of Lord Balmerino then proceeded, but the verdict of the Lords was a foregone conclusion. The defence rested only upon weak, technical objections, which nevertheless were brought forward by the Lord Steward, who encouraged the prisoner to make the most of his defence. They, however, were overruled unanimously by the Judges, and withdrawn by the prisoner himself, after consultation with his Counsel. On the conclusion of the evidence, the Lord Steward returned to his Chair below the Throne, and having ordered the prisoners to be removed, called upon the Lords each in turn, beginning with the youngest peer present, to give their verdict; and when each had replied "guilty," he gave his own last of "guilty upon my honour."

On July 30, the Court having resumed to give sentence, Lords Kilmarnock and Cromartie made touching and eloquent appeals to the King's clemency, while Lord Balmerino brought forward another objection by which, it was thought, the whole indictment might be quashed, namely, that the act making it lawful to try those taken in arms in a county other than that in which the offence was committed, had been passed after the crime charged against the prisoners. Though raised irregularly, when sentence was about to be pronounced, it was not overruled by the Lord Steward; and the Lords, after returning to their own House, decided unanimously to defer the conclusion of the trial till August 1. Meanwhile, Counsel was appointed for the prisoner, which he had before declined, and the Lord Steward informed the two other Lords that they would have the benefit

¹ *State Trials*, xviii. 450 sqq.; Lord Malmesbury's *Letters* (1870), i. 42 sqq.

of the objection, in spite of their having pleaded guilty, in case it proved to be of any substance¹. On the reassembling of the Lords on August 1, Lord Balmerino withdrew his objection on the advice of his Counsel, and acknowledged his crime², begging for the Lords' intercession with the Sovereign.

The Lord Steward then proceeded to give judgment in the following speech, which is one of the few pronounced by him which has come down to us intact, and which, delivered on this great and solemn occasion, has a special interest. By some the reflections which it contains on the recent political events and the guilt of the prisoners have been censured as misplaced, and as showing a harsh disregard for the feelings of the accused. To think thus is to misconceive the whole aim and meaning of the proceedings against the rebel Lords. In sentencing these persons to death, for whose tragic fate a widespread sympathy and regret might not unreasonably be felt, the government had to justify their action before the nation; and the full extent of the crime committed could not be understood without placing in a clear light the political circumstances of the time, or showing the ruin and misery which the success of the rebellion would have occasioned. Nor has it ever been held that the duties of a Judge in giving sentence should be limited merely to pronouncing the penalty inflicted upon the prisoner. As the punishment of each criminal is meant to have effects reaching much farther than the criminal himself, and to serve as a warning to the community in general, so the language which a Judge may employ in giving sentence is intended to have an application far beyond the unhappy offender standing before him in the dock. It has never been the opinion that in consideration of the prisoner's tragic situation, the Judge should restrict his speech in passing sentence, to expressions of sympathy and consolation. On the contrary, looking beyond the criminal, his duty is to show the crime in its clearest and blackest colours. If the occasion therefore and object of the condemnation of the three rebel Lords are remembered, there is nothing, apart from the terrible concluding sentence, of which the Lord Steward had no more power to alter a single syllable than the prisoners themselves, and which was not put in

¹ p. 576.

² The *Dict. of Nat. Biog.* is in error in stating that Lord Balmerino was undefended by Counsel and that he declined to admit his crime. See *State Trials*, xviii. 470, 486, 494, 496, and 535.

execution, that even at this distance of time, when the security of the Throne has almost banished the dangers of treason, and a long enjoyment of stable government has produced a forgetful tolerance, can be pronounced harsh or unjust. The Lords voted their thanks; the speech was ordered to be printed and it has remained the model upon which the judges in trials for treason of our own times have composed their utterances¹.

William, Earl of Kilmarnock, George, Earl of Cromartie, Arthur, Lord Balmerino; in the course of this solemn proceeding, you have already been acquainted that you stand convicted of the high treason charged upon you....

To attempt to aggravate crimes of so deep a dye and in themselves so incapable of aggravation, against persons in your unhappy circumstances, would be a vain as well as a most disagreeable task; and yet the duty of that place, in which I have the honour to sit, requires that I should offer some things to your consideration, to explain more fully the necessity of that justice, which is this day to be administered, and to awaken in your minds a due sense of your own condition.

If any rebellion can be heightened by the circumstances attending it, it is that in which your Lordships have been engaged;

¹ *Lords Journals*, xxvi. 622 b, 628 a; *State Trials*, xviii. 497; H. 538, f. 172, Lord H.'s speech with corrections, and ff. 154 sqq.; N. 23, f. 1; cf. the fine speech, e.g., of Mr Justice Wills on sentencing Arthur Alfred Lynch to be hanged for treason in 1903 (*Times*, January 24, p. 14), "What was your action in the darkest hour of your country's fortunes, when she was engaged in the deadly struggle from which she has just emerged? You joined the ranks of your country's foes....You have fought against your country, not with it. You have sought, as far as you could, to dethrone Great Britain from her place among the nations....Nor can I forget that you have shed the blood, or done your best to shed the blood, of your countrymen who were fighting for their country. How many wives may have been made widows, how many children orphans, by what you and those who acted under your command, have done, Heaven only knows. You thought it safe, at that dark hour of the Empire's fate, when Ladysmith, when Kimberley, when Mafeking were in the very jaws of deadly peril—you thought it safe no doubt to lift the parricidal hand against your country....And against what a Sovereign and what a country did you lift your hand? A sovereign, the best beloved and the most deeply honoured of all the long line of English Kings and Queens....Against a country, which has been the home of progress and freedom and under whose beneficent sway...you have enjoyed a liberty of person, a freedom of speech and action, such as you can have in no other country...in the world....Had you, and those with whom you associated yourself, succeeded, what fatal mischief might have been done to the great inheritance which has been bequeathed to us by our forefathers." In this case, the offender profited by his own insignificance, obtained a pardon, became a Member of Parliament, and was soon boasting of his hope, should similar circumstances occur, to "do the same thing again."

a rebellion against a King celebrated throughout the world for his mild and gracious government....You took arms...to destroy the purest religion and subvert the best constitution, formed and established upon the justest balance....

What did your Lordships, who profess the Protestant religion, and claim the benefits of this constitution, seek to introduce in the room of these invaluable blessings? In religion, Popery, attended with its train of superstitions and inhuman principles of persecution; in government, despotism and tyranny; and to cement and support this horrid system, an abjured Pretender, deriving his principles of religion and civil policy from Rome and France....The time you chose to arm against your Country was whilst it stood engaged in a just and necessary war against that Crown and Spain; a war to preserve its own commerce and independency and its ancient natural allies. Though some of your Lordships have thought it proper, at this bar, to disclaim that connection or any advantage from it, yet with that ambitious and encroaching power you avowedly joined yourselves; by this aid you endeavoured to effect the dreadful change you meditated, and to such a master to enslave this free nation.

[The whole consequences upon the fate of Europe by the enforced calling off of the British arms from the continent were not yet known; compared with this, the miseries brought upon private persons and families and the murders committed—for the death of every loyal subject killed in this rebellion was a murder—though moving in themselves—appeared of less importance.] But when arguments of compassion have been urged in behalf of the guilty, let us balance those arguments with a becoming compassion for our country, for those who have suffered innocently...and for those who have died gloriously in its defence....

Permit me to entreat your Lordships to deal impartially with yourselves and to consider seriously what could be your temptation to commit [this crime]. Everyone of you enjoyed the common benefits of that legal and mild government which, in violation of the most solemn oaths, you sought to destroy; and some of you had received particular advantages from it. You, my Lord Kilmarnock and my Lord Cromartie, have thought fit to appeal to your former conduct, as a proof of your good principles for the support of the Revolution and of our present happy establishment. With real grief I lament that you ever deviated from those sentiments. If, as your Lordships would

have us believe, they were sincere and proceeded from the heart, what could possibly be your inducement to this sudden apostacy? Your Lordships have left that a blank in your apologies; and I choose rather to leave it to be filled up by the constructions of others than to supply it myself.

Thus much I am warranted to say; no glittering prospect of success in the beginnings of this rebellion could tempt you. On the one hand, those beginnings were so weak and unpromising as to be capable of seducing none but the most infected and willing minds to join in so desperate an enterprise. On the other hand, it was impossible, even for the party of the rebels, to be so inconsiderate or vain as to imagine that the body of this free people, blest in the enjoyment of all their rights, both civil and religious, under his Majesty's protection, secure in the prospect of transmitting them safe to their posterity, under the Protestant succession in his royal house (of which they see so many illustrious branches...); I say, it was impossible that they could imagine the body of this free people, under these circumstances, would not rise up as one man, to oppose and crush so flagitious, so destructive and so unprovoked an attempt....

The rebels soon saw his Majesty's faithful subjects, conscious both of their duty and interest, contending to outdo one another in demonstrations of their zeal and vigour in his service. The merchants and the trading part of this great metropolis...to their lasting honour, associated themselves, at the risk of their private fortunes, to support the public credit of their country. Men of property, of all ranks and orders, crowded in with liberal subscriptions, of their own motion, beyond the examples of former times and uncomelled by any law....The clergy, with a zeal becoming their holy function, regulated by Christian charity, instructed their hearers by their doctrine, and led them by their example....The rebels soon saw many of the nobility and gentry, from amongst the first families, the greatest estates and the best blood in the Kingdom, surrounding the Throne....But above all, they saw both Houses of Parliament, the great Council of the nation, the representative body of this people, warmed with a truly British spirit, and treading in the steps of their ancestor overcoming all difficulties and unanimously concurring in every measure to strengthen the King's hands....[The first military accidents, if they for the moment raised delusive hopes, seemed to have been designed on purpose by Providence to make the

vengeance at Culloden more crushing. How much did not the nation owe to the illustrious Prince and his brave soldiers on that memorable day.] Then was experienced how much that courage, which virtue, true loyalty and the love of our country inspire, is superior to the rashness and false fire of rebellion accompanied with the terrors of guilt....

What remains for me is a very painful, but necessary, part. It is to pronounce that sentence which the law has appointed for crimes of this magnitude—a sentence full of horror! such as the wisdom of our ancestors has ordained, as one guard about the sacred person of the King, and as a fence about this excellent constitution, to be a terror to evil-doers and a security to them that do well.

The judgment of the law is, and this High Court doth award :

"That you, William, Earl of Kilmarnock, George, Earl of Cromartie, and Arthur, Lord Balmerino, and everyone of you, return to the prison of the Tower from whence you came; from thence you must be drawn to the place of execution; when you come there you must be hanged by the neck, but not till you are dead; for you must be taken down alive; then your bowels must be taken out and burnt before your faces; then your heads must be severed from your bodies, and your bodies must be divided each into four quarters; and these must be at the King's disposal—and God Almighty be merciful to your souls.

Lieutenant of the Tower, take the prisoners from the Bar."

This being done, the Serjeant at Arms, at his bidding, made proclamation that "His Grace my Lord High Steward of Great Britain intends now to dissolve his commission." Then the White Staff being delivered to the Lord High Steward by the Gentleman Usher of the Black Rod, upon his knee, his Grace stood up uncovered; and holding the Staff in both hands, broke it in two and declared the commission to be dissolved; and then, leaving the Chair, came down to the Woolsack and adjourned the Lords to their own House, who returned in the same order as they came down¹.

¹ Neither the Lord Steward's speech nor his management of the trial gained the approval of Horace Walpole, who calls the former "very long and very poor, with only one or two good passages," and continues: "though a most comely personage, with a fine voice, his behaviour was mean, curiously searching for occasion to bow to the minister that is no peer [Henry Pelham] and constantly applying to the other ministers, in a manner, for their orders; and not even ready at the ceremonial. To the prisoners he was peevish; and instead of keeping up to the humane dignity of the law of England, whose character it is to point out favour to the criminal, he crossed them and almost scolded at any offer they made towards defence," *Letters*, ii. 216, 221. See also his

Only the hope of the royal mercy now remained. The character of the prisoners was unstained by vice, nay, perhaps it was in some way even enhanced by the personal loyalty, devotion and self-sacrifice which they had displayed in the lost cause. Since, however, the penalties of the law were not inflicted on moral grounds alone, but rather for political reasons, to secure the safety and material prosperity of the state, so it was only just and necessary that those by whom they had wilfully been imperilled, should suffer.

"Everything that is done," wrote the King on receiving an account of the trial and its issue from the Duke of Newcastle, who forwarded at the same time an application for the relations and friends of the condemned men to have access to them, "to whole description of the trial which shows his inventive talent, *ib.*, and also *George II*, i. 160, where he declares that Lord Hardwicke here lost his reputation for "humanity" which "he gained by some solemn speeches made on the circuit, at the condemnation of wretches for low crimes, the meanness of his birth breaking out in insolent acrimony"—whatever that may mean. Not one other contemporary writer or spectator endorses these remarks. And here it may be noted that from this time the Chancellor, who had before been mentioned in his pages with respect and admiration, is never introduced without the most outrageous abuse and the most unscrupulous calumnies, generally much too gross to deceive. He is thus described in the *Memoirs of George II*, i. 159: "Sir Philip Yorke, Baron of Hardwicke and Lord Chancellor, was a man of low birth and lower principles [so in the MS. kindly communicated by the Countess Waldegrave, but modified in the printed text]. He was a creature of the Duke of Newcastle, and by him introduced to Sir Robert Walpole, who contributed to his grandeur and baseness in giving him an opportunity of displaying the extent of the latter by raising him to the height of the former. He had good parts, which he laid out so entirely upon the law in the first part of his life, that they were of little use to him afterwards, when he could have applied them to more general views.... As he had no knowledge of foreign affairs but what was whispered to him by Newcastle, he made a very poor figure. In the House of Lords he was laughed at, in the Cabinet despised. [Here the editor, the third Lord Holland, intervenes—'Yet, in the course of the work, the author laments Lord Hardwicke's influence in cabinets, where he would have us believe he was despised, and acknowledges that he exercised a dominion nearly absolute over that House of Parliament, which he would persuade his readers, laughed at him. The truth is, that whenever that great magistrate is mentioned, Lord Orford's resentments blind his judgments and disfigure his narrative.'...He was only not false to the falsest of mankind [the D. of N.].']—The cause of this strange hostility and deliberate, systematic mendacity is probably to be found in the "trifling offence," which he states that he had received from Lord Hardwicke (*George II*, iii. 161), possibly connected with some desired re-arrangement of his sinecures of which he held five; bringing in according to his own account £3900, but according to the Commissioners, £6300 (see *Quarterly Review*, xxvii. 193 sqq.).—A considerable portion of his narrative and his correspondence was composed while closely connected with Fox and his faction, who, he states, was one of the chief authorities for his "facts." The Chancellor's firm friendship with his hated uncle, the elder Horace Walpole, was also probably another ingredient in this insane hostility. But there was also, as with Lord Hervey, a hopeless inability to recognize and appreciate greatness; cf. his sneers, e.g. at Handel, Garrick, the younger Pitt, Anson, and the two Dukes of Devonshire of his time. For his childish spite against the D. of N., see *Letters*, iv. 258.

shew humanity, without preventing justice, is very proper¹"; and the following memorandum suggests the way in which the Chancellor, upon whom it fell principally to make these painful decisions of life and death, and who was chiefly responsible for the action of the government and the exercise of the King's prerogative, approached the difficult question of mercy.

August 6th 1746. Notes at the Cabinet Council on consideration of the three Lords condemned for High Treason.

Lord Chancellor. Uneasy task to determine. Diff(erent) from the administration of justice. Three Rules. King's mercy a peculiar Prerogative appropri[ate] to himself, to be exercised by discretion.

As to the partic[ular] cases. No merit in any of them. In one of them more circumstances of compassion than in the others. The only cons[ideration], what is proper to advise the King to do for himself and his Government. Will consider it only on that foot. The Rule, to execute justice in mercy. 3 grounds of punishment:

1. Vindictive justice upon the guilty.
2. Example—and terror to others *ut poena ad paucos etc.*²
3. To shew strength and prevent any opinion of weakness in the Government. Here no solicitations of numbers of persons, or of particulars, of great influence.

The choice of the person to be left to the King³.

From the last sentence here, it would appear that it was considered sufficient for the satisfaction of justice that two only of the condemned should undergo their sentences. In the event, Lord Kilmarnock, against whom probably the fact that he was in receipt of a pension from the Crown as late as September 1745, told unfavourably⁴, and Lord Balmerino⁵, suffered death by

¹ N. 23, f. 1.

² Ut metus videlicet ad omnes, poena ad paucos perveniret. Cicero, *Orat. pro Caelio*, 46, 128.

³ H. 522, f. 119. There follows (f. 121) a list of rebel commoners with the final decision regarding their fate,—reprieve, pardon or execution, in the Chancellor's handwriting.

⁴ *State Trials*, xviii. 528, T. Birch to P. Y. According to H. Walpole (*Letters*, ii. 219), it had been stopped by Lord Wilmington, while Lord Cromartie had £600 a year from the Government. William Boyd, fourth Earl of Kilmarnock (1704-1746), hitherto a supporter of the Hanoverian dynasty, joined the rebellion at a late stage, induced, it is supposed, by the hopes of reestablishing his encumbered estate. He was present at Falkirk and captured at Culloden. In his last letter to his son he inculcates loyalty to the reigning sovereign as the "basis of the civil and religious liberty and property of every individual in the nation," and died repenting his conduct and regretted. For account of his last moments, *State Trials*, xviii. 503 sqq., and H. 240, f. 319, where James Forster asks leave of the Chancellor to print Ld. K.'s speech at the bar of the Lords, and to confess a misstatement by Ld. K.'s desire, viz. that he had given himself up voluntarily after the battle of Culloden; also below, p. 575.

⁵ Arthur Elphinstone, succeeded his brother in 1746 as sixth Lord Balmerino (1688-

beheading, while Lord Cromartie¹, probably, as is hinted in the note above, for reasons of compassion for his wife and children, was respited and finally pardoned.

The trial of Lord Lovat by impeachment, a mode of proceeding chosen probably because the prisoner had committed no overt act, which could form the subject of indictment by a grand jury, as in the case of the other peers, began on March 9, 1757, being ushered in by ceremonies similar to those on the former occasion. It attracted an enormous concourse of people, "the largest and finest assembly I ever saw," writes one who was present, "the House of Commons on one side, ladies of quality on the other, and inferior spectators without number at both ends."² The scene presented now, however, was a very different one. In the same place which the noble Kilmarnock and Balmerino had so lately quitted for the scaffold, stood now an old man, over 70 years of age³, of hideous aspect, long notorious for treachery to friends and foes alike and for crimes of violence and brutality, who now, by the strong arm of the law, was thrust back from the brink of the grave into which he was already sinking, to undergo the last penalty of treason. His age and his infirmities—for he declared he could neither hear, see, speak or stand—excited no compassion, and only created sport and amusement for the spectators, when it was seen that they were merely a ruse to obstruct the course of the trial; while the ability and persistence with which he conducted his defence, in which he

1746). Implicated in the rebellion of 1715 but pardoned by the Government, he had returned to England with the Pretender's approval, and in 1745 was one of the first to join the Prince. He took part in the march to Derby, was present at Falkirk and was captured after the battle of Culloden by the Grants and sent to the Duke of Cumberland. Though he had acknowledged his crime in Westminster Hall, he declared his staunch adherence to the Pretender's cause on the scaffold, p. 577; *State Trials*, xviii. 523 sqq.

¹ George Mackenzie, third Earl of Cromartie, had joined the rebellion after the march of the Prince into England and was present at Falkirk. In April 1746 he was captured at Dunrobin Castle and imprisoned in the Tower. He was respited on Aug. 9, allowed to leave the Tower in 1748 and pardoned the year following. His wife at the time of his trial was *enceinte* with her tenth child. He died in 1766. *Dict. Nat. Biog.*, *State Trials*, xviii. 525. For a letter from him in distressed circumstances to Ld. Hardwicke, Nov. 1, 1758, expressing "the many obligations, which I and all my family lie under to your Lordship, and the great goodness you have at all times been pleased to show us," and asking his intercession with the D. of Newcastle for the payment of arrears of his wife's annuity, see H. 247, f. 263.

² Lord Malmesbury, *Letters* (1870), i. 53.

³ According to his own account in his defence, and the inscription on his coffin, he was 80, but in a letter to the Duke of Cumberland he calls himself past 70. New Spalding Club, *Hist. Pap.* (1895), 340; *State Trials*, xviii. 715, 797. According to his *Life* by W. C. Mackenzie (1908), his age was about 71.

mixed jokes and repartees, raised no sympathy and gave to the scene the semblance of a grotesque and gruesome comedy, rather than that of solemn tragedy.

Simon Fraser, eleventh Lord Lovat, whose long career of crime and wickedness was now to be terminated, had first showed his talents by his success in persuading his cousin, the ninth Lord Lovat, to settle his estates upon his father, Thomas Fraser, of Beaufort, his heir male, away from his own daughter, Amelia, his heir general. The Scottish Court, having on the death of the ninth Lord, pronounced nevertheless in her favour, he attempted to kidnap and marry her; but on finding that the heiress had been removed, he avenged himself by an atrocious outrage upon the person of her mother, upon whom he forced a mock marriage. He was condemned to death for high treason, but eluded his pursuers till 1700 when, after visiting King James at St Germain, he received a pardon from King William for his state offences, but was outlawed for his private crimes. He returned to France, became a Roman Catholic, and was received into favour by Louis XIV. He was sent to Scotland to organise a Jacobite rising, and used the occasion to betray his accomplices to the authorities and to destroy his enemy, the Duke of Atholl. His treachery becoming known to the Jacobites, he was arrested on his arrival at Paris, and was imprisoned for several years. In 1713, he at last escaped from France, with the aid of some of his clan; and in 1715, in revenge for his recent treatment, he took the side of the English government and did much to ruin the hopes of the rebels in the North of Scotland. Accordingly, in 1716, he received a full pardon and the life rent of the Lovat estates, and in 1730 was declared to have inherited the barony. He was made Sheriff of Inverness, was appointed to the command of one of the newly-raised highland companies; and in spite of suspicions, often revived, of his fidelity, and the notoriety of the savage orgies kept up at Castle Downie, he continued to be trusted by the government and became one of the most influential persons in the North of Scotland.

Meanwhile, he had secretly resumed intrigues with the Jacobites. On the promise of a dukedom, he had joined the association for inviting over the Pretender, and he was deprived in 1739 by the government, which had again become suspicious, of his office and command. In 1745, his desire for vengeance was moderated by prudence, and he did not openly join the Rebellion till after the battle of Prestonpans. His attitude was accurately described in

his own words in reply to President Forbes: “I humbly think that men should be moderate on both sides; since it is morally impossible to know the event¹. ” In December he was captured by Lord Loudoun, but with his usual good fortune managed to make his escape. On the retreat of the rebels and collapse of the rising, he endeavoured to back out and to repudiate his own “unnatural” son, whom he had in fact forced into the rebellion². He was captured finally after Culloden, and was now at length to pay the penalty for a long career of low crimes and treachery³.

The proceedings in Westminster Hall opened on March 9, 1747, when the Lord Steward addressed the prisoner and explained the procedure, reminded him that he might have the aid of Counsel, but only on points of law—for the recent Act of 7 William III, c. 3 did not extend to trial by impeachment⁴—but expressed the hope that the Lords would approve his giving aid to the accused, if he should require it.

The prisoner, however, showed himself capable of taking advantage of every opening. He appealed to the compassion of the Lords on the score of his age and infirmities; protested he could make no defence, that for three years he had lost the use of his limbs, that he could neither see nor hear, that he had come to the bar at the hazard of his life, that he had been obliged to rise so early that morning he had fainted several times away; that his witnesses, for whom the Lords waited, had all gone away, not knowing they would be called, or had been prevented from coming from Scotland, and that their Lordships might do with him as they pleased. To several of the Crown witnesses he raised objections, as being his tenants, and to John Murray of Broughton on the ground of his attainder. The latter, who had been Prince Charles’s secretary, and who now turned King’s evidence, was the chief witness against the prisoner and proved his guilt beyond all doubt. The conduct of the proceedings required firm management, not only in dealing with the prisoner’s efforts to procure delay, but with the objections and obstructions of some Lords, who carried

¹ *Culloden Papers*, 238.

² p. 577.

³ He married (1) Margaret Grant by whom he had two sons, Simon and Alexander, and two daughters, and (2) Primrose Campbell, whom he is said to have blackmailed, by whom he had one son Archibald, on whose death in 1815 and the failure of his issue, the estates devolved upon Thomas Alexander Francis Fraser of Strachan, Aberdeenshire, descendant of the fourth Baron and grandfather of the present Lord Lovat.

⁴ Immediately after this trial an act was passed, 20 George II, c. 30, removing this disability (H. Walpole, *Letters*, ii. 274).

their opposition to the government so far as to make this an occasion for raising difficulties and to gain a little cheap popularity. Lords Granville and Bath showed a suspected zeal in supporting the prisoner's complaint that he had been deprived of his money and strong box¹; and Lord Talbot, who frequently interrupted the proceedings, by accusing Sir William Yonge, one of the managers for the Commons, of having questioned a witness improperly, brought on an altercation between the two Houses which was only stopped by Lord Hardwicke's firmness and authority.—“My Lords, I desire this may be forborn. It is my duty to acquaint your Lordships that it is irregular and contrary to all rules of proceeding. The honourable manager explained his words in a very proper and candid manner...and he was in the right².”—At last the trial, after continuing for seven days, came to its inevitable conclusion on March 19, 1747, and the prisoner was pronounced guilty by all the peers without a single dissentient³. The Lord Steward then addressed the prisoner, reciting his long career of crime and perfidy and dwelling especially upon the evil influence he had exercised upon his young son and upon his clan, the last a usurped power which called at once for a remedy. He laid emphasis besides on Lord Lovat's own excuse for his treason, that it was an act in revenge for the deprivation of his regiment by the government, as if allegiance and patriotism were not duties, and solemn oaths not binding on the conscience, but all depending on the enjoyment of extraordinary favours, to which no man had a right and which few could, in the nature of things, share. He reflected upon the prisoner's secrecy and unsteadiness in religion, and concluded: “From hence I would draw an instructive lesson, which well deserves the serious attention of the whole nation, of what important consequence it is to preserve, not only the name and outward form of the Protestant religion amongst us, but the real uniform belief and practice of it. Indifference to all religion prepares man for the external profession of any; and what may not that lead to? Give me leave to affirm before this great assembly, that even abstracted from religious considerations, the Protestant religion ought to be held in the highest reverence, as the surest barrier of our civil constitution. Ecclesiastical usurpation seldom fails to end in civil tyranny. The present happy settlement

¹ p. 578.

² p. 583; H. 15, f. 202.

³ *State Trials*, xviii. 530 sqq.; Walpole's *Letters*, ii. 257, 264, 267; H. 538, ff. 209 sqq., papers relating to the trial; below, pp. 577 sqq.

SKECHES AT THE TRIAL OF LORD LOVAT, OF THE LORD HIGH STEWARD, THE PRISONER, AND OTHER FIGURES
BY WILLIAM HOGARTH





of the Crown is, in truth and not in name only, the Protestant Succession. And the inviolable preservation of that civil and fundamental law, made since the Revolution, whereby every Papist, or person marrying a Papist, is absolutely excluded from inheriting to this Crown, will in future times be a solid security for our posterity, not only against the groundless and presumptuous claim of an abjured Pretender and his descendants, but also to prevent this Kingdom from becoming a province to some of the great popish powers, who have so long watched for the destruction of our liberties!"

He then pronounced the usual sentence for high treason upon the prisoner, who was then led from the Bar, and the Commission was forthwith dissolved.

Lord Lovat was executed on April 9, playing the game to the last, declaring that he died a Roman Catholic and a Jansenist, and quoting with almost his latest breath :

Dulce et decorum est pro patria mori.

CORRESPONDENCE

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 49, f. 5.]

LONDON, August 19th, 1746.

DEAR SIR,

...The fate of Lord Kilmarnock and Lord Balmerino is now irreversible. Mr James Forster¹ attended the former together with Mr Hume, a young clergyman, Lord Hume's brother. Mr Forster desired me to breakfast with him on Thursday morning last, when he gave me a large account of what had passed between himself and my Lord, of which he intends to publish the particulars. He was thoroughly persuaded of his Lordship's sincere repentance of his private and public faults, the former of which had led him into the latter; for, having ruined his circumstances by his vices, he was tempted by the offer of his wife's aunt, the Countess of Errol, to engage in the Rebellion. He owned the justice of the sentence against him, and the candour of the House of Lords and particularly of my Lord High Steward, who had sent him and

¹ *State Trials*, xviii. 833; *The Speech of Philip, Lord Hardwicke* (1747); *Lords Journals*, xxvii. 62 b, 78 b; H. 538, ff. 299, 301, 307 for heads and sketch of speech. This passage was quoted by Lord Eldon in his speech on the Roman Catholic Disabilities Bill, 17 April, 1821 (*Parl. Deb. N. S.* v. 318).

² James Forster (1697-1753), dissenting divine and a famous preacher of the day. The account which he published of Lord Kilmarnock's last hours brought upon him violent attacks. Cf. *State Trials*, xviii. 503 sqq.; and Horace Walpole, *Letters*, ii. 237.

Lord Cromartie a message that they should have the benefit of Lord Balmerino's objection, if it should be found of any weight, tho' they had pleaded guilty. He solemnly denied his having given any advice for putting of our prisoners to the sword, and declared that he was never admitted into the secrets of the Young Pretender, so that he knew nothing even of Lord Traquair's¹ being concerned, and was never present at any council of war properly so-called, except at Derby, when each officer was called upon to give his opinion singly; and he scarce ever heard business talked of, except in a general way in the circle after the Young Pretender's dinner, which was usually about six in the afternoon. He described the Heads of the Highland Clans, except Lochiel and one or two more, as a set of men without the appearance, manners or understanding of gentlemen; and yet they had the whole ascendant in the army, and carried it with so much insolence to their Master that he was obliged to shew them such condescensions, as he must have been extremely ashamed of himself, often taking them out of the circle singly and making his requests to them in the most abject manner.

Thus far I had from Mr Forster, and my curiosity tempted me yesterday to be a spectator of the catastrophe of the tragedy which I saw every circumstance of, except that of giving the blow. The two Lords came out of the Tower, about half an hour after ten, to an house prepared for them opposite to the scaffold, which Lord Kilmarnock mounted at twelve, according to my watch, which agreed with St Paul's clock, for that of the Tower was twenty minutes slower. His behaviour there was solemn, decent and composed; and he shewed great attention to the exhortations and prayers of Mr Forster and Mr Hume, the former of whom particularly called upon him to avow his abhorrence of the Rebellion and his full satisfaction in the present government, which he readily did in a few words, delivering a paper to Mr Forster to the same purpose. He then put on his night cap and took off his coat, and having taken leave of those about him, kneel'd down to the block; and then rising, put off his waistcoat, and laying his head down again, lift up his hands as praying for some minutes; and at last gave the sign, when the executioner severed his head from his body by two strokes, the first of which effectually did the business, about 25 minutes after twelve.

Lord Balmerino's behaviour was exactly correspondent with that on his trial. He was dress'd in his regimentals, blue turned up with red, a scarlet waistcoat and a tie wig. He entered the scaffold about 20 minutes before one, with the air of an actor on the stage, and walked up first to view his coffin and then several times over the scaffold, and having taken a paper out of his pocket, read it to the gentlemen about him, in which he declared his

¹ Charles Stewart, fifth Earl of Traquair, one of those who took part in the preparations for the Prince's expedition and was excepted from the Act of Indemnity of 1747; died 1764.

satisfaction in the cause for which he died, reflected upon the present government, extolled the Young Pretender, denied the orders given for no quarter which, he said, Lord Kilmarnock and he were most likely to know of, as commanding the Guards, if such orders had been given; and in the close of his speech expressed himself with great severity of General Williamson, referring for his character to the 109th Psalm, the 5th and following verses to the 15th¹. He was interrupted in the treasonable part of his speech by an officer, to whom he replied with some sternness, taking off his spectacles—*Sir, give me leave.* He gave his speech to the Sheriff, then called for the executioner, to whom he gave all the money he had in his pocket, (as Lord Kilmarnock had done before), and instructed him to strike near his head, took the axe into his hands, tried the block on the wrong and then on the right side, gave his wig to a warden, put on a plaid night cap, took off his coat and waistcoat and afterwards his flannel waistcoat, and without taking any notice, that I observed, of the chaplain of the Tower or the other clergyman, who attended him, or the least act of public devotion, walked up to the block and immediately gave the sign, upon which the executioner divided his head from his body by three blows, the first of which took away all sense from him. Some persons affected to admire his intrepidity; but the more judicious, and even the much greater majority, preferr'd the meekness, seriousness and piety of his fellow-sufferer. And I perceived that the effrontery of the former absolutely eras'd all the awful impressions made by the behaviour of the latter, and had the same effect as a farce at the end of a tragedy....

THO. BIRCH.

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 142.]

LONDON, 23rd Decr, 1746.

DEAR JO,

...Lord Lovat's impeachment passed nem. con. [in the House of Commons]. The letter laid before the House, signed by himself, and the handwriting proved by his Secretary, to whom he dictated it, is enough to hang the first Duke in the Kingdom. In this letter, which was intended for Murray, he recommends his son, (whom he calls the darling of his old age), to his protection, mentions the having sent him out at the head of the clan to fight under the eyes of the glorious Prince Royal, expresses his old strong attachments to the Stuart interest, and laments with concern that he is unable, through age and infirmity, to venture his old bones in the service of the Young Pretender.... You may probably have seen my name in print as a manager, and I assure you the being perched up as a public orator in Westminster Hall appears

¹ The imprecation beginning: “Set thou an ungodly man to be ruler over him.” General W. was the Lieutenant-Governor of the Tower.

to me at present in a very terrible light. I hope you will be over before that time to prepare me for the solemnity with a proper dose of that *sal volatile* of spirits which you carry about you, and administer so *à propos* to your friends. The articles are in number seven, and there is a handsome preamble setting forth the odiousness of the Rebellion. We charge him with receiving commissions from the Pretender in 1743 and 1745, with levying war against the King by sending out his clan to join the Rebels, with corresponding with the Young Pretender, Murray, Lochiel and other traitors, and aiding and encouraging them to prosecute their treasonable designs. The old fellow was brought last Thursday to the bar of the House of Lords, when he behaved with great unconcern, and affected to claim acquaintance with, and talk to, several. He pretended not to hear one word of the articles when they were read to him by the Clerk, and yet answered readily to my Lord when he spoke to him from the Woolsack. He has four counsel and three solicitors allowed him. He complained by petition that his estate had been granted away in an extraordinary manner, and that since his confinement he had subsisted on the charity of Gen. Williamson. Lords Gr[anville] and B[a]th took this complaint up and said the House was obliged *ex officio* to redress it. The latter thought they should punish whoever had illegally sequestrated his estate. The Lords ordered that the Advocate should report if the case was as Lord Lovat had stated it, and should put him in possession of his estate in the same manner as if he was not in custody. He has time till the 13th of next month to put in his answer....

P. Y.

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 246.]

TWICKENHAM PARK, Decr 29th, 1746.

DEAR JOE,...

As I know your zeal in everything that has any relation to your great and gracious Master is eager and unbounded, take the following account of the affair you enquire after.

It took its rise in the House of Lords from Lord Lovat's petition, whereof a copy is enclosed, and which he presented at the bar on Thursday the 18th instant. As soon as the petition had been read and his Lordship withdrawn, the Duke of Newcastle took it into his hand and made the proper motions for counsel, solicitors, time to answer, etc. After this my Lord Granville, with a high tone of voice and strong words, took up the other part relating to his estate. He represented it as the boldest assertion that ever was made by a man standing at the bar in his circumstances; that the petitioner made it at his peril, but it became

that Court, which was to judge him, to see that, before conviction, he was not stript of the means of making his defence. This he urged in various lights, and tho' he concluded with no particular motion, his arguments tended to stopping the proceeding till the matter was enquired into, and that the House ought to interpose in it. The Duke of Newcastle answered him with great spirit, and gave the House an account of the only applications Lord Lovat had made to him, the first in September about a sum of £1000, which had been stopped in his banker's hands at Edinburgh, and the last about a fortnight before, concerning the rents of his estate and his strong box, upon both which the King had given the proper orders, tho' no return had yet been made to either. My Lord Bath spoke next in the same sense with my Lord Granville, but concluded with a motion for an address to his Majesty to be informed who gave the orders complained of in the petition. After this some other Lords spoke, and Lord B.'s motion was treated as it deserved. In particular, my Lord Cholm[ondeley]¹ left the persons he is at present connected with, and differed from Lord B. in this point. The tendency of the whole was obvious and accordingly thought of; but the immediate point of business was to prevent this pretence from being made use of as a handle to obstruct the proceeding. The King's servants having not received from Scotland any full or clear account of the fact, could speak only from hints and conjectures. To go into an enquiry to make it clear would have answered the old Fox's purpose to spend time and create delay, and yet (as it usually happens in such cases) many Lords thought, as a general proposition, that it concerned the jurisdiction and authority of the House to come to some resolution upon it. The shortest way seemed to be to make a kind of declaratory order, that since the Lord was in custody and under prosecution, he should be permitted to receive the rents and profits of his estate by his factors or agents. This was grounded on the present circumstances, without regard to what had passed *flagrante rebellione*, in which whatever was necessary was undoubtedly justified by that necessity: and happy was it for us all that we had a head and hand that understood and dared to execute it! As to the strong-box, little notice was taken of it in the House; but I suspect there may be some mistake in the account you have received concerning it; for Capt. Ferguson, having since the debate been spoken to by the

¹ George, third Earl of Cholmondeley, son-in-law of Sir Robert Walpole; Lord Privy Seal, 1743-4.

Duke of Newcastle, owns he has it and also between £200 and £300 of the money which was taken in it.

Two days after this petition, an answer (tho' imperfect) came from the Lord Advocate of Scotland to the Duke of Newcastle's letter, which had been sent on Lovat's last application to his Grace. By this it is said to be admitted by his own factor that no orders had been given to receive the rents of his estate in general, but that some person had been appointed by Sir Everard Fawkener to take possession of a particular farm, which was in Lovat's own occupation; which appointment is understood to have been cautionary only.

This is the best account I can recollect of this odd affair, which I am persuaded can end in nothing but to increase the indignation against those who have appeared so warm in it...

God send you a good voyage¹. Adieu!

...etc....

HARDWICKE.

Hon. Elizabeth Yorke to Col. the Hon. Joseph Yorke

[H. 39, f. 23.]

LONDON, March 14th [1747].

I feel myself so much obliged to my dearest Brother, that I cannot help taking the first opportunity of telling him how sensible I am of the very kind manner in which he has opened the campaign of our correspondence....Besides, you know the distinction of having received the last letter from Jo makes one of so much importance, while it lasts, that vanity, as well as affection, bears a part in the satisfaction it produces. In this view, it must be owned the packet, I am now returning thanks for, was attended by some circumstances of extraordinary *éclat*, since it was delivered in Westminster Hall on Tuesday, and conveyed to me from his Grace the Lord High Steward by the hands of Miss Di. West. The place and dignity I have just mentioned tell you at once the situation of affairs at Powis House, the subject of attention and conversation throughout the town, and what this paper is like to be filled with. And in the first place I must say I could wish you had never seen Lord Lovat, that I might send Hogarth's print of him in return for your charming and picturesque description of Mad^e. la Maréchale de Bathiani, which was certainly very judiciously addressed to a lady, since it is always held that each of us

¹ Col. Yorke returned to Flanders at this time with the Duke of Cumberland.

thinks abuse upon others the highest flattery to herself. *Que ceci soit dit en passant.*

I shall now proceed to give you a general account, of so far as are past, of the proceedings in what will be a very long trial. It began on Monday, and the Managers opened their charge by three speeches by Sir William Yonge, Lord Coke and the Attorney General [Sir Dudley Ryder]. The first touched on the general topics of Jacobitism and the Rebellion, the second was something of the same sort but extremely short, and the third contained the particular charge against the prisoner. My Lord then desired that, on account of his age and infirmities, his solicitor might be allowed to take notes and ask questions for him. The first part of his request was granted, but he was told that it was contrary to the rule of law for anyone to assist him as to matters of fact, and that he must therefore examine and cross-examine for himself. After this there were two evidences called, to whom the prisoner objected, as being his tenants and therefore interested witnesses. This he could bring no proof of, and they denied it upon oath. They were then examined and proved his drinking Jacobite healths, calling the Pretender's family by the royal names, reading their declarations, and telling those that found fault with them that they talked treason, with other such facts. On Tuesday M^r Secretary Murray was brought to give his evidence, and objected to by Lord Lovat as being an attainted person and consequently not a competent witness. To this the Managers answered that he had been brought into the King's Bench the last term, and had been asked why sentence should not pass against him according to the Bill of Attainder; that to this he had pleaded the having surrendered himself, and being amenable to justice before the time limited in the act, that the Attorney General by warrant from the Crown had confessed this plea, that Murray had been thereupon remanded to the Tower to take his trial in the common course of law, that there had been a record made of this proceeding in the Court of King's Bench, that they had brought that record as an evidence of the fact and desired it might be read. Lord Lovat then objected to the reading of the record, and said he would produce several witnesses to prove that Murray did not surrender himself, and desired his counsel might be heard¹. He was asked which objection he desired to have argued, that against reading the record, or that against Murray's surrender, when by a great oversight he chose the first. This he did probably with a notion of farther delay, thinking he

¹ Murray had in fact been apprehended before July 12, 1746, the date of the Act (see p. 547); his apprehension, according to "the equitable construction of such acts," being "considered equivalent to a surrender," H. 15, s. 200. "The Chancellor told us that it would be very hard upon the subject, if you laid it down as a rule, that when a man was apprehended before the day for surrender was elapsed, and so prevented from having it in his power to surrender, if the Crown should strain their power in so vigorous a manner as to insist upon his being attainted." New Spalding Club, *Hist. Papers* (1895), 332.

might take up the other afterwards, but there he was deceived; for after his counsel and the Managers had been heard, the Lords adjourned; and after a debate (between Lord Talbot, Lord Bath and some others on one side, and the High Steward and the Duke of Bedford on the other), it was resolved without a division that the record should be read, which was done on their return to the Hall and closed the proceedings there for that day; but the Lords afterwards resolved in their own House that Lord Lovat's counsel should not be permitted to argue against, nor produce witnesses to falsify, a record of the Court of King's Bench. With this the High Steward acquainted the Prisoner the next day; and the Managers then entered upon Mr Murray's examination by desiring him to give the Lords an account of what he knew in relation to the designed invasion in 1743 and the plot formed in concert with it, which their first article charged the prisoner at the bar with being concerned in. Murray then began to relate the first steps taken towards this conspiracy, and, among other things, gave the substance of several conversations between him and Lord Traquair, in one of which my Lord had told him that he had been endeavouring to procure such assurances as had been desired from the Pretender's friends in England, that he had had frequent meetings with some of them and named Lord Barrymore¹, Sir John Hynde Cotton, and Sir Watkin Williams Wynne², that Sir John Cotton particularly was very shy in his behaviour upon the subject.—He was going on when Lord Talbot³ stood up in a rage and interrupted him; said the witness should not be suffered to proceed, that this was only a hearsay story, that the evidence was calumniating persons he had the highest regard for, and things of this sort. This produced great altercation between him and the Managers, and ended in their telling Murray that he need not in the rest of his relation name any person that was not essential to his story, till he came directly to the prisoner at the bar. He then went upon the rise and progress of the late Rebellion, and in the course of his examination other accidents produced more disputes, and the heat of the person I have named as the interrupter was with difficulty kept under. Murray, however, behaved most amazingly well, neither bold, nor daunted; told his story, which was very long, in the gentlest and the fairest manner, and in the properest words, and answered very perplexing questions with great cleverness and ingenuity....Yesterday was the next day the Court sat, when the Managers entered upon the written evidence, and in support of your papers (you understand what I mean by that appellation)⁴, brought Hugh Frazer, the secretary⁵, who was as extraordinary in his way as Murray; very sensible and intelligent, tho' unwilling in his manner. He proved the father's having forced the son into the

¹ See p. 304 *n.*

² See pp. 76 *n.*, 537.

³ Son of the late Chancellor. See p. 252 *n.*

⁴ Probably papers taken after Culloden. *State Trials*, xviii. 727.

⁵ Formerly Lord Lovat's secretary.

Rebellion, and shewed great indignation at him for it. Sir Everard Fawkener was also examined the same day and by Mr Yorke¹; and here I must go out of my way to tell you what Lord Lovat said to your friend. He was asked whether he would put any questions to Sir Everard, to which he answered No, and then smiling turned towards him and said: *Sir Everard Fawkener, I am your very humble servant: I wish you joy of your young wife*². Your own risible muscles will tell you how this was received by those who heard it. There were also some less important witnesses called yesterday, and in the course of the examination of one of them, Lord Talbot took up and misinterpreted some words of Sir William Yonge's, who explained himself but not to my Lord's satisfaction, so that the dispute rose to such a height that the High Steward was forced to interfere with authority, and to declare that *the honourable Manager was in the right*. If this had not put an end to the debate, there were great apprehensions that the Commons would, on their return to their own House, have sent to demand satisfaction of the Lords for this treatment of their Manager; but the High Steward's conduct was afterwards acknowledged with the warmest thanks by Sir William, and the Speaker sent him his sense of it in the most pompous terms....I daresay you have already heard enough to make you not wonder at the Prisoner's having one day kissed the noble Peer I have so often mentioned³. Lord Lovat's behaviour is very inconsistent, complaining of blindness and deafness, yet reading without spectacles and hearing when it is convenient. In short he seems to me strong enough to kill half his judges, tho' he sometimes tells the Lords he shall die at their bar, and that, if they will not give him a day's rest, they may as well order his funeral....I must not omit mentioning that Princess Amalie attends constantly; she has a little box made out of Lord Orford's gallery. You will easily imagine that Murray's evidence makes a great noise, and it is not unlikely but it may have further consequences. Two of the persons he named were absent, but our neighbour⁴ had affectedly placed himself in the first row of the Commons, and attempted to turn off what was said by a most audacious behaviour of grinning and laughing. However, the next day, there was a meeting of about 40 Tories to consider of what they should do upon the occasion, and it was apprehended that they would take notice of it in the House; but as that has not yet been done, some people are disposed to surmise that they are

¹ According to *State Trials*, xviii. 695, 745, Sir E. F. was examined by the Attorney-General and Thomas Fraser by Philip Yorke, as one of the Managers. Charles Yorke was engaged as one of the Counsel for the Crown.

² *Ib.* xviii. 746. Sir E. F., aged 63, had married in February Harriet Churchill, aged 21. See p. 494 n.

³ Lord Talbot.

⁴ Sir John Hynde Cotton of Madingley Hall, Cambridgeshire, M.P. for Cambridge, a leading Jacobite, had been included in the government on its reconstruction in 1744 as Treasurer of the Chamber, and was dismissed this year. He died in 1752.

afraid of making bad worse, of which there does indeed appear to be danger, as this has certainly opened a new scene and it is not easy to see where it will end. I should have added to my account of Murray's evidence that it was very material against the prisoner, proving that Lord Lovat was present at a meeting with Murray and several Chiefs of the Rebels a little while after the Battle of Culloden, where it was proposed by my Lord, and agreed to by the rest, to raise 3000 or 3500 men for the defence of their country against the King's forces; that 400 of them were to be Frazers and that there were 70 louis d'or's then given to a servant of my Lord's to pay his men for 10 days. Murray's account was supported by Hugh Frazer's examination, which has made a great impression upon the hearers.

Tuesday, March the 17th.

As my letter could not set out till this day, I determined to add yesterday's proceedings to those of the former days. There were a few letters read which were first proved by Robert Frazer, a secretary of Lord Lovat's, and Mr Murray. Sir John Strange¹ then summed up the evidence in a speech of about an hour long. The High Steward then asked the prisoner what he had to say in his defence. He answered that he had several witnesses to produce; that one of them was a member of the House of Commons, and he desired to know how he must apply to have leave for him to appear —adding that he wanted 4 or 5 days, at least, to prepare for his defence. The Lords then returned to their own House, and sent a message to the Commons for leave that Mr M'cleod² might be examined at their bar (he being the person Lord Lovat desired to call for a witness); and then, not thinking it could be any way necessary to allow more time, as he had already had so much, they adjourned only till to-morrow. It is said that Mr M'cleod turned quite pale on being thus summoned and that he is very angry at Murray, for having said in his evidence, that he had delivered one of the Pretender's general letters of encouragement (designed for his friends) to him; M'cleod denies that the letter was delivered to himself, but owns it was given to somebody for him....

The most affectionate compliments of all the family attend you, and *my Lord Steward* ordered me to make many excuses to you for him for his not having wrote to you, as he fully intended to have done, but that the business of his great office has prevented him....

¹ Lord Hardwicke's old friend, and author of the Reports, who had refused the Mastership of the Rolls in 1738 and, after taking part in the attack on Walpole in 1742, had resigned his office of Solicitor-General and retired from his legal practice. He was now M.P. for Totnes and one of the Managers in this trial for the Commons; in that of Balmerino he had been Counsel for the Crown. In 1750 he accepted the Rolls and died in 1754; see above, p. 54.

² Norman Macleod, M.P. for Invernessshire. He was not called by Lord Lovat. New Spalding Club, *Hist. Pap.* (1895), 337.

...I will not add anything more than the most earnest wishes that the prophecy made to you, *Généreux Guerriers*, may be fulfilled; and à votre égard, let me add, may your laurels be crowned with safety....Paper and reason both forbid a formal conclusion; you know I am most affectionately yours,

E. YORKE.

... Sweeting insists upon my sending her duty and prayers.

Lord High Steward to Col. the Hon. Joseph Yorke

[H. 6, f. 256.]

POWIS HOUSE, March 17th, 1747.

DEAR JOE,

...The Commons have laid siege to old Lovat ever since Monday the 9th instant, when they opened the trenches. When they will carry the place is uncertain. We have had stories of his intending to surrender at discretion; but those were false rumours, and to-morrow he is to make his grand sally. He has summoned Macleod to be a witness for him, which occasions much speculation. A prodigious strong evidence has been given for the Commons; but he is a strange, tough, old Highlander, always complaining of the weakness of his forces, but appears to be stronger than anybody. The Princess Amalie has done us the honour constantly to overlook and overhear us from my Lord Orford's gallery.

By what we are told, this letter will probably overtake you just as you are taking the field. God send the Duke success and glory, and keep you in safety. I wish the Dutch and Austrians may have their contingents ready in time. For my own part, I have not liked the appearances from thence for some time, no more than from Turin. Wrangling about trifles, they lose great objects; and, provided their subsidies are early paid, seem to regard little else. I should be extremely glad to have an exact account of your strength, and that of the enemy, as soon as you take the field. If the French are in earnest to bring their King thither, I shall think they really mean to be very strong.

But having nothing to say and much to do, I must conclude....

HARDWICKE.

Distribute my compliments in due manner to all friends. I hope the Duke likes my Scotch Bill, which cost me more trouble than I can tell¹.

¹ For abolishing the hereditary jurisdictions, see pp. 592 sqq.

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 150.]

March 24th, 1747.

DEAR JO,

As I have already troubled you with a long account of the first part of Lovat's trial, you may take the conclusion from me too, which may be comprised in much fewer words. When he was brought to the bar on Wednesday last, instead of attempting any defence by witnesses, he gave in a written speech which was read by the Clerk, wherein he abused our evidence, particularly Murray and Robert Frazer, and complained that his own had been hindered by extraordinary methods from coming up, and argued against the fitness of admitting accomplices in guilt to become witnesses, without a previous pardon. This sort of defence could furnish little matter for a reply. However, the Solicitor¹, whose province it was, spoke after him, and showed under what species of treason the different overt acts fell, which had been proved against the prisoner in the course of the trial. He also showed how the general evidence of the plot was confirmed by the letters, and vindicated the competency of the witnesses. Lovat had afterwards a mind, upon a question of Lord Talbot's, to call two witnesses to prove the restraints laid in Scotland upon some of his own; but this was opposed by the Managers as irregular in point of time after they had finished their reply, and unnecessary to the prisoner, whose innocence could not be cleared by such evidence. The truth is, that in two petitions, he gave in before his trial, he set forth that some of his witnesses were sick, that others refused to come so long a journey, and prayed for further time on that score; but intimated not one word of any restraint on the part of the King's officers in Scotland. He had 17 witnesses in Town, but did not think fit to call any of them. The Lords found him guilty that day, and the next (Thursday) he was brought down to receive sentence, when, being asked if he had anything to move in arrest of judgment, he again enlarged upon his services in the year 1715, complimented the D. of A[rgy]ll, talked of his gratitude and attachment to his dear master, the late King, and his respect for the present, but without asserting either his innocence or repentance. I thought his tale a tedious one, but what last dropt from him was a key to the whole, viz. that if his company had been left him, there had been no rebellion, *i.e.* he had never joined in one². I shall say nothing of my Lord's oration. You have it in print; it speaks for itself. When the old rogue recommended himself to mercy, it was highly indecent in him not to say a word of his son. Upon the whole, his behaviour has been without dignity and decorum, and

¹ William Murray (1705-1793), Solicitor-General, afterwards Lord Chief Justice and first Earl of Mansfield, of whom much hereafter.

² See above, pp. 572, 574.

calculated to carry on to his grave the general odium which the infamy of his character had acquired¹....

Hon. Charles Yorke to Col. the Hon. Joseph Yorke

[H. 37, f. 67.]

April 13th, 1747.

...Old Lovat's behaviour at his execution² was suitable to the rest of his whole life, insensible to the terrors of death or intrepid (if you will), without dignity or true firmness. He called for the axe as soon as he was brought upon the scaffold, and felt with his fingers round the edge of it, and then told the executioner he believed it would do, exhorting him not to mangle him (Lovat) as he had done old Balmerino³. He spoke a few words to the people about him, declaring that he died a Roman Catholic and a Jansenist, that he had been uniformly loyal to the rightful King nor ever betrayed his cause, that he had injured no man in the course of his life nor anything, not so much as a hired horse, had been fretted by him. A very just representation (doubtless) of the sincerity of his heart and the innocence of his life and manners!...

¹ See also H. 15, f. 197, the detailed account of the trial and of the evidence produced, written by Philip Yorke to his brother who adds: "I think this trial will make a fine appearance in print"; also *State Trials*, xviii. 529 sqq.; Lord Malmesbury's *Letters* (1870), i. 52 sqq.; New Spalding Club, *Hist. Pap.* (1895), 331.

² Cf. account in *State Trials*, xviii. 842.

³ See above, p. 577.

CHAPTER XVII

SCOTLAND. REFORM AND PROGRESS

ON June 17, 1747, soon after the trial of Lord Lovat, an Act of Indemnity which gave a free pardon to all who had engaged in the Rebellion and had returned to their allegiance, passed the Parliament, when a large number of prisoners were released from the gaols ; and however necessary and deserved were the penalties enforced upon the guilty, it is a relief to pass on from the punitive and repressive portion of the policy of the Administration to the subsequent measures for securing good government in Scotland, and for uniting the victorious and the defeated in the common bond of loyalty to the British throne.

Immediately after the battle of Culloden the Chancellor had written : " We shall now be proceeding by laws "; and this great work of construction was forthwith taken up. No man, then living, probably, could have approached the difficult political and social problems involved, which touched not only personal and individual rights and sentiment but also national jealousies, with equal breadth of view and equal precision. No one else could have decided so clearly the relative importance of details and minor difficulties which accompany every great reform, or have applied with so much certainty and utility the knowledge of precedent and analogy by the light of which legislation is viewed, not as a mere opportunist change to satisfy an ignorant popular demand of the moment or to gain power for a faction, but as a real developement incidental to the natural progress of the nation. Something more was now wanted than the quiescent Walpolian policy—*quieta non movere*—and on the other hand something more required than the mere " prompt measures " of repression, urged upon the Government by the army and the Duke of Cumberland. Rising above the prejudices of the day, Lord Hardwicke's mind was entirely free

from, and uninfluenced by, that dislike, jealousy and contempt of the Scots, then so universal and so injurious to the developement of good relations between the two kingdoms. It happened, moreover, that no English Chancellor had ever possessed Lord Hardwicke's knowledge of the law and constitution of Scotland. He was well informed regarding the affairs and state of the Northern kingdom. He had family ties with Scotland ; his eldest son had married into the family of Lord Breadalbane, the representative of one of the great Campbell clans, and he had long maintained a friendship and acquaintance, and carried on a correspondence, with the chiefs of the powerful Scottish families, with the military officers engaged in suppressing the Rebellion, including his own son, Colonel Joseph Yorke, and with various individuals connected with the government of the country. With the Scottish judges especially he had always cultivated good relations, and was regarded by them with genuine respect. Lord Hardwicke had the lawyer's insight, the statesman's outlook, the historian's knowledge, the authority and influence of one who had gained the trust and respect of all parties and whom all honoured. Lastly he brought to his task that inestimable quality of firmness combined with perfect tact and good humour, without which the most brilliant talents and the most conscientious efforts can often effect nothing.

The problem to be solved was of a kind which inevitably occurs when a higher social organisation comes into close contact with one less advanced. Institutions, which had been created in an elementary state of society, are found to be totally out of keeping with the new conditions and opportunities of life. The object of feudalism had been the protection of all classes of the community against the despotism of the supreme ruler, and the defence of the weaker units of society at a period when the central justice was not strong enough to reach them. In reality, it had often been used for other ends, for the oppression of the weak and the annihilation of law and order ; and in Scotland, in particular, the independent power of the barons had been doubtless one of the chief causes of the disturbed history of that kingdom. In England, the fountain of justice had never been allowed to flow from any source but the throne; and, with some few exceptions on the borders, private jurisdictions had been stamped out rigorously by the Norman kings. The course of English history proved the wisdom of this policy and showed that the great barons, though

deprived of such jurisdiction and power, were strong enough to withstand the King on occasion, and disinterested enough to safeguard the liberties of the inferior classes.

In Scotland, in many parts of the country, regalities and heritable jurisdictions were still in existence. The relations between lord and man were such as were never found even between the master and the serf in England. The lord had the power of life and death over his vassals, unrestrained, except by his own arbitrary will, by any regulations; and he wielded an authority over his subjects such as no King of England had ever possessed. They were in fact slaves, exposed without defence to the cruelties and exactions of their masters and without possibilities of escape. Though the infliction of capital punishment had generally fallen into disuse and was rarely exercised, the most flagrant abuses were practised, especially in the smaller and less important courts, the jurisdictions of which were often used as a means of taking vengeance on some enemy of the clan, while the odious crime of kidnapping and of selling men and boys to the American planters largely prevailed¹.

It is surprising that such a condition of things should have existed so long, but it would probably have continued even longer, had not the resulting political danger drawn attention to the social evil. The abuse had long been recognised. The illustrious Bacon, at the accession of James I, had wished to conform the Scottish laws to the English; and James I himself had condemned these powers in the *Basilicon Doron* addressed to his eldest son: as "the greatest hinderance to the execution of our Lawes...which being in the handes of the great men do wracke the whole countrey²," and advised the Prince to suppress or restrain them as far as he could. The framers of the Act of Union had refrained from dealing with them, and from exciting animosities against their great measure, and it was expressly laid down in the Act that the heritable jurisdictions should be reserved to their owners. They were left untouched again in 1716. Sir Joseph Jekyll, the late Master of the Rolls, and one of the most sagacious and farseeing statesmen of his time, writing to his nephew Sir Philip Yorke in 1723, urged strongly the necessity of disarming the Highlanders and

¹ J. H. Burton's *Hist. of Scotland* (1873), viii. 520.

² Quoted by Lord Hardwicke in his speech on the Heritable Jurisdictions Act, *Parl. Hist.* xiv. 25. Sed nihil est, quod legum usum magis impedit, quam Juris regalis haereditaria apud quosdam nobiles potestas; vera totius Regni calamitas.

suppressing the jurisdictions¹. Nothing however had been done. The reform was in fact one of those which involve considerable opposition and difficulty, which offer little advantage or reward to any party that effects them, and which incur the risk of unpopularity, and are therefore not very readily taken up by politicians.

The recent rebellion, however, had shown the danger of leaving the actual state of things unreformed. The absolute power of the laird over his men, their total dependence upon him for their lives, their property and their subsistence, resulted in their entire exclusion from the national life. "Every duty, moral or political, was absorbed in affection and alliance to their Chief....The clans knew no law but the Laird's will. He told them to whom they should be friends or enemies, what king they should obey, and what religion they should profess²." Of the King's courts of justice, of the central government they never heard. They knew nothing of the political events of the day, and their attitude was decided only by the personal tie which bound them individually to their chief, whom they followed willingly to fight for King James or King George. The existence of bands of men, which at any moment could be turned into small armies at the bidding of a few great chiefs, some of whom were avowedly hostile to the Hanoverian dynasty and to the national religion, was a political danger which could no longer be permitted to continue, and the question was thus forced upon the attention of the cabinet. A favourable opportunity for the introduction of reforms now offered itself. The failure of the rebellion had completely exhausted the Jacobite resistance. The large majority of the Scottish magnates were engaged on the side of the government and were willing to yield up their privileges in return for security and good order; and the Duke of Argyll, in particular, who represented the administration in Scotland and who, as hereditary justiciar of Scotland, owned the largest and most important jurisdiction, had acquiesced in the change, though somewhat unwillingly.

It was a matter of some delicacy to thus destroy ancient rights and institutions bound up with the national life and sentiment, which had been reserved by the Act of Union. The Chancellor, however, to whom was left the whole management of the new legislation, proceeded with characteristic tact and consideration for Scottish sensibilities. He refrained at first from introducing a Bill

¹ H. 11, f. 54.

² Dr Johnson, "Tour in the Highlands," *Works* (1825), vi. 42, 82, 90.

himself, but on August 5, 1746, he moved in the House of Lords for an order upon the Lords of Session in Scotland themselves to draft a Bill of reforms, and to transmit to the House a return of those who owned the regalities and jurisdictions. In bringing forward his motion he disclaimed, "as he had done in all other places, and on all other occasions," all personal or national application, expressed his opinion that the Rebellion was, in part at least, the result of a defect in the constitution of the kingdom, which exempted a great portion of Scotland from the authority of the Crown, and pointed out the necessity of completing the Union according to the intentions of the framers of the Act of 1707. The motions were carried without any division, "but without the least support from the Duke of Argyll, who sat by in a corner silent and complained of the headache¹."

The overtures to Scotland, however, met with little response. The Scottish judges were jealous of English innovations and honestly doubtful of their success²; and in their reply, while they forwarded certain useful suggestions, they dwelt on the great difficulties to be surmounted and on the clause in the Act of Union, which "secured" these jurisdictions as "rights of property." They "judged it improper for them to present their Lordships with the draft of a bill" on the ground that "rights of property" "would be extinguished," and finally they could give no information concerning the proprietors of the jurisdictions, since their records were either lost or indecipherable³. This disappointing return was read to the House on January 22, 1747, and on February 17 the Chancellor brought in his own Bill, "planned," as Charles Yorke informed his brother Joseph, "without any help from the Scotch⁴."

The speech made by him in introducing the measure is not untruly described by one of the latest historians of Scotland as "powerful, temperate and luminous," and as "worthy of a great occasion⁵." It was afterwards printed for private circulation and

¹ See T. Birch to P. Yorke, August 9, 1746, giving account of this debate and of the Chancellor's speech, printed in *Parl. Hist.* xiii. 1416.

² p. 612.

³ *Ib.*; *Parl. Hist.* xiv. 2; Duke of Argyll in *Scotland as it was and is*, 275-9, where however he is in error in stating that President Forbes "drafted the Act" and sent the draft on which the law was based; *Culloden Papers*, 288.

⁴ p. 605; for Lord Hardwicke's "first sketch of the Bill abolishing the Heritable Jurisdictions in Scotland," in his own hand, see II. 542, f. 76; for proposals of President Forbes, Dundas, and others, ff. 80 sqq.

⁵ W. L. Mathieson, *Scotland and the Union* (1905), 376-7.

reprinted in 1770¹, and according to Charles Yorke, it was taken down as he spoke from short notes². He began by discussing the objections put forward by the Scottish judges, to whom he took care to pay a personal tribute, as "very able, learned and honest men," to whose opinion he paid great deference. Their chief plea, however, that the jurisdictions were "secured" in perpetuity to their owners by the Act of Union, could not stand. They had, in fact, according to the Act, been not "secured" but only "reserved" to them, "in the same manner as they were now enjoyed by the Laws of Scotland," that is, subject to the Parliament of Scotland, as they now were subject to the Parliament of Great Britain. As for his own reasons for supporting the Bill, the late Rebellion was not one of them, though it might be the occasion, and the measure might be more necessary when there was a Pretender to the Crown. Further, he continued, "I disclaim any reason drawn from the notion of a general disaffection in Scotland, which one has heard so much and so injuriously talked of. I consider it as an imputation upon that country highly imprudent, impolitic and unjust. Great part of the people are extremely well affected to this government and this constitution...and the liberties of their country....This makes me reflect with detestation on those infamous incendiary pamphlets and papers, written and sent abroad into the world, with a design to raise and inflame dissensions and make a breach between the two nations. They are most wicked and criminal libels; highly criminal and punishable by law; and should this spirit be carried on longer, it will deserve the consideration and censure of your Lordships."

Nor was it one of his reasons that the actual possessors of the jurisdictions were unfit persons. He saw, even then in the House before him, holders of these rights worthy to be entrusted with any powers, which it was proper for the Crown to entrust to subjects. But men were mortal. Governments, in the view of lawgivers and founders of states, were, on the contrary, framed to be perpetual. He hoped indeed that the Constitution of Great Britain might be immortal, as well as the Protestant Succession. But to preserve them all seeds of disorder and confusion must be removed—"My Lords my true reasons are drawn from known and allowed maxims of policy. I think the parcelling out the power of jurisdiction, originally lodged in the Crown, in this manner, was a wrong and dangerous model of government;

¹ Also later in the *Parl. Hist.* xiv. 9.

² p. 172.

I say of government in general, because I look upon the administration of justice as the principal and essential part of all government. The people know and judge of it by little else. The effects of this are felt every day by the meanest, in the business and affairs of common life. Statesmen indeed have their attention called off to more extensive political views ; they look abroad into foreign countries and consider your remote interests and connections with other nations. But of what utility are these views, great as they are, unless they be referred back to your domestic peace and good order ? The chief office of government is to secure to us the regular course of law and justice. When the King therefore grants away jurisdiction, he parts with so much of his government...and this tends directly to dissolve the bond of union and affection between King and people....Hence arises a dangerous and unconstitutional dependence—and how can it be otherwise? The people will follow those who have the power to protect or hurt them." The mischief had long been recognized in Scotland, and to remedy it those exorbitant powers of the Scottish Privy Council had grown up, which themselves proved more arbitrary than even the Star Chamber in England, and which were at last abolished after the Act of Union. The fundamental evil should now be removed, and the powers of jurisdiction restored to the Crown, the allegiance of the people fixed upon that sacred object, where alone it ought to rest, and the benefits of this limited monarchy, the foundation of the national liberties, diffused over the whole United Kingdom.

He proceeded to explain in detail the changes effected by the Bill. By this the whole of the heritable jurisdictions were abolished, but not without compensation to their actual possessors. Further clauses provided for the abolition of compulsory written evidence, a cause of delay and expense in the Scottish Courts, long complained of, and for the transference to the Crown of sentence money and fines which had hitherto alone provided the payment of the sheriffs and stewards and which furnished occasions for partiality and corruption. The sheriffs now obtained a fixed remuneration for their services. Their jurisdiction, as well as that of the judges, was increased ; while the judges' circuits, which were now to replace the former jurisdictions of the chiefs of the clans, were extended and regulated.

The Bill was then read a first time without opposition. But the measure, by providing compensation, had become a money bill ; and it was therefore, with some wise alterations embodying objections

of the Scottish judges and leaving, according to the precedent of Cromwell's reforms, jurisdiction to the baronial courts in civil cases of 40*s.* value and for the recovering of rents, as well as petty offences punishable by a fine of 20*s.*, or the stocks¹, transferred to the Commons where, after considerable opposition and obstruction, it was finally carried by the substantial majority of 137 to 53 on May 14, 1747². On May 21, 25, and 29 it was debated again in the Lords, when the Duke of Argyll made a long and very able speech, in which he dealt with the history of the courts, endeavoured to show their utility in the past and supported their abolition at the present time³. The Bill was subsequently passed without a division in spite of the singularly feeble protests of ten English peers. Similarly, ward holding and the services attached to such tenures were also abolished by the Act 20 George II, c. 50.

On March 25, 1748, the King's writ was obeyed for the first time throughout the whole of Great Britain, and "the general benefits of equal law were extended to the low and the high, in the deepest recesses and obscurest corners⁴." "Before that was effected," wrote Pennant in 1769, "which was done by the influence of a Chancellor, whose memory Scotland gratefully adores for that service, the strong oppressed the weak, the rich the poor⁵." "The ward holding act and the jurisdiction act," wrote an eminent Scottish lawyer and historian of the time, "were the ideas of one, to whose plans of police and of law, Lord Bacon, had he seen them, would have given the character, which he gave of the laws of another framer of the British police [Henry VII], 'that they were deep and not vulgar, not made upon the spur of a particular

¹ pp. 605 sqq. See 20 George II, c. 43, *Statutes at Large*, xix. 133.

² A report having been industriously spread about that the ministry were indifferent concerning the fate of the Bill, the first reading was carried by a small majority only, in a thin house, many Scottish members and the Prince of Wales's friends being absent. The second reading passed by 233 to 102; see pp. 606, 611; H. 15, f. 156. On May 12, Philip Yorke writes again: "The Scotch bill has given us a great deal of trouble in the Committee, for besides some difference of opinion amongst the friends of the bill, the opposers wrangled out every material clause and divided the House, though with no other effect than to expose their own weakness; for the majority were always 5 to one and in several instances the minority was not above 30, and in one 6 only." (H. 15, f. 160); *Parl. Hist.* xiv. 27 sqq. Claims for compensation were made to the amount of £600,000, but the "whole sum paid [was] £164,232: 16s."; note in Lord H.'s hand, H. 542, f. 173. See also H. 98, ff. 127-205 and 218. The sums are differently given in J. Browne's *Hist. of the Highlands*, iii. 416 and in A. Lang's *Hist. of Scotland*, iv. 521.

³ pp. 613-4.

⁴ Johnson's *Tour in the Highlands*, Works (1825), ix. 42.

⁵ *Voyages and Travels* (1809), iii. 47.

occasion for the present, but out of providence for the future ; to make the estate of the people still more and more happy, after the manner of the legislators in ancient and heroical times¹. ”

These great and far-reaching reforms were accompanied with a series of further enactments for the settlement of Scotland, which have not received to the same extent the approval of historians². One clause of the Act 21 George II, c. 34, which became law in 1748, enforced the disarming of the Highlanders. Dr Johnson feared that the measure would enervate the people and discanted in sonorous phrases on the privation of the “generous and manly pleasure” of bearing arms, and of the “spirit” lost, when “pride has been crushed by the heavy hand of a vindictive conqueror.... An old gentleman, delighting himself with the recollection of better days, related that 40 years ago, a chieftain walked out, attended by ten or twelve followers, with their arms rattling. That animating rabble has now ceased.” But he is forced to allow the success and the salutary results of the prohibition, and to justify the government (though its enforcement was attended with some inconveniences and hardships to the loyal clans³) in suppressing this obvious cause, not only of rebellion, but of thieving, highway robbery and all kinds of disorder. It was undoubtedly a wise and necessary measure, one which has been adopted in our own time in similar circumstances in the late war, and which appears scarcely to call for explanation or defence.

By another clause of the same Act the Highland dress was forbidden, and this enactment attacking national sentiment and regulating personal habits, which have generally been considered in this country outside official interference, has been especially censured as tyrannical. Lord Glenorchy testifies to the regret with which the Highlanders gave up the kilt and to the great unpopularity of the “English Law,” and believed more people would rebel for the sake of the kilt than for the Pretender⁴. The shame and

¹ *Essay towards a General History of Feudal Property* (1758), 246-247, by Sir John Dalrymple (1726-1810), Scottish Advocate and afterwards Baron of the Exchequer; author of the *Memorials of Great Britain and Ireland*; see also his letter, H. 101, f. 91. This fine passage from Bacon had been already quoted in the debate in the Commons by Sir George Lyttelton, *Parl. Hist.* xiv. 48. H. had also at heart the project of Bacon of assimilating the laws of Scotland with those of England and the limiting of the Scottish entails. See the correspondence with Lord Kames, p. 623.

² For a memorandum in the Chancellor’s handwriting of legislation projected by him, H. 542, f. 170.

³ *Works* (1825), ix. 86-87, 41; and below, p. 605.

⁴ H. 102, f. 178; H. 103, f. 52.

indignation of the Scots, we are told, would not have been greater, if the whole race had been decimated¹. Dr Johnson characterises it as an "ignorant wantonness of power," and discants on the hardship of having to wear a new dress, "which has always been found painful." Trousers, however, could scarcely be found painful wearing when they were put on over the shoulders, or carried over the back upon a stick, by which means the Highlanders fulfilled the requirements of the law; and after a decision of 1757 a kilt stitched up the middle was held to be lawful.

The regulation was enforced with moderation. One grievance was the shortness of the time originally allowed for buying the indispensable garments, the Highlanders saying that the English would think it very unfair "to be obliged to wear nightgowns before they had worn out their coats"². The time, therefore, for the compulsory change of dress was extended from August 1, 1747, to August 1, 1748, and again to August 1, 1749³. It appears to have been generally submitted to without any great agitation of mind or of body⁴. In 1773, at the time of Dr Johnson's visit, the law was "universally obeyed"; but the Highlanders were still unconvinced of the sin of not wearing trousers, and regarded the prohibition of the kilt as a law "made by Lord Hardwicke," probably owing to his personal distaste for the dress, to be "in force only for his life"⁵. The measure was evidently one, the benefits and hardships of which have been equally exaggerated, and like much other well-meant legislation, it did little harm or good. It was, however, by no means an act of gratuitous tyranny, as it has sometimes been represented, but was part of the Chancellor's great policy of dissolving the clan system of which the tartan was the special distinctive feature, and of assimilating the Highlands to the rest of Great Britain.

Of much greater utility and more serious importance were the laws passed by the Chancellor for the bringing up of the rising generation, and for the elimination of Jacobite principles, as far as possible, from education and religion. By 21 George II, c. 34 XII, all teachers were required to take the oath of allegiance; and a very severe Act was passed against the Scottish Episcopalian Church which, as this communion was at this time a nursery of sedition,

¹ J. Browne's *Hist. of the Highlands*, iii. 413.

² II. 103, f. 52.

³ W. L. Mathieson, *Scotland and the Union*, 371.

⁴ p. 618; II. 102, f. 178.

⁵ Johnson's *Works* (1825), ix. 47.

seems not to have been undeserved. The bishops were all non-jurors as well as most of the inferior clergy, and the former had been habitually nominated to their sees by James¹. Many of them, according to Col. Joseph Yorke, were really papists, who went about the country sowing sedition and rebellion and enlisting men for the French military service². They constituted a dangerous element in the state and were probably one of the chief causes and instigations of disorder and disloyalty. By Acts passed in 1746 and 1748 the exercise by any clergyman of his functions in public or private dwellings, who had not taken the oaths and who refused to pray for the Sovereign, was forbidden under penalty of imprisonment, and for the second offence of transportation. Any laymen present were also rendered liable to imprisonment and the loss of political rights; while no clergyman could officiate in Scotland without letters of orders from a bishop of the church of England or Ireland, the object of the latter clause being to prevent the clergy, by a fraudulent taking of the oaths, from continuing to inculcate their Jacobite doctrines³. In consequence, a large number of episcopal chapels were destroyed by the military forces. Subsequently, the lawyers having raised doubts as to its application, the last clause was re-enacted. It gave rise, however, to a long and interesting discussion in the House of Lords in Committee, where it was opposed by the whole bench of bishops, including the Chancellor's friends, Secker, Bishop of Oxford and Thomas Herring, Archbishop of York⁴, by whom it was represented as an attack upon the powers and privileges of the Church, as a determination by the state of the validity of orders and a superseding of episcopal ordination. Moreover, the hardship of expelling so large a body of clergy from their cures—for ecclesiastical orders cannot be repeated—was urged by several speakers⁵.

The Chancellor, however, believing that such severity was essential to the future safety of the kingdom, supported it strongly. In his opinion, the question was bound up indissolubly with the whole bringing up of the rising generation, than which nothing could be more important for the future destiny of Scotland. Education and the first principles imbibed from teachers had so

¹ *Lockhart Papers*, ii. 289, 310.

² p. 512; see also General Huske's opinion, p. 546, and Lord Glenorchy's, p. 605.

³ p. 615; *Statutes at Large*, xviii. 513, xix. 269; J. Browne, *History of the Highlands* (1845), iii. 411; H. G. Graham, *Social Life in Scotland*, 386 sqq.; *Albemarle Papers*, ed. by C. S. Terry, ii. 529 sqq.

⁴ p. 615; Coxe's *Pelham*, i. 387.

⁵ p. 616.

powerful an influence on men's future conduct, that it was dangerous in the extreme for a government to allow the disaffected to be instructors of the people. As to cruelty, the hardships and losses caused to the loyal and the innocent in the late rebellion should be recalled, and the continuance of a destructive war was also due to the necessity of recalling the troops from Flanders. He proceeded to distinguish between the conscientious non-jurors who engaged in the rebellion from principle, who might deserve compassion and who, if they remained quiet, would be protected in their lives, liberties and property, and those who treacherously took the oaths and abused the confidence of the government, whose punishment could scarcely be too severe. With regard to the alleged encroachment upon the rights of the Church, the clause annulled no orders granted by any bishop, non-juring or otherwise ; nor was there any claim by the civil authority to determine the validity of orders ; but surely the government had the right to decide what persons should exercise the office of priest or bishop within the state, and this was all that was now attempted: moreover, he reminded the House, that so far as he could himself understand the Church establishment, no Bishop could be consecrated without the King's *congé d'écrire*.

The clause was also supported by the Duke of Argyll, who pointed out that all the Scottish bishops since the Revolution had been chosen by a *congé d'écrire* obtained from King James or the Pretender, and that those who received orders from such bishops must be themselves Jacobites, and feel themselves obliged to propagate Jacobite doctrines. The clause, however, was strongly attacked and was struck out by 32 votes to 28¹. The Chancellor, however, had sufficient influence to prevent its abandonment. "Lord Chancellor," wrote Lord Dupplin to Philip Yorke on May 12, "never made a greater figure in the opinion of all good judges. In the first day's debate he confuted by a most clear, distinct and able argument all that was advanced against the clause; and in the second, warmed with the consequences which would have attended the loss of the clause, he spoke with a spirit and zeal which animated all who heard him²." Accordingly in the report stage,

¹ p. 616; *Parl. Hist.* xiv. 276.

² H. 257, f. 312; W. L. Mathieson, *Scotland and the Union*, 369 sqq.; Lecky's *Hist. of England* (1883), ii. 67; Bishop Secker "was answered, but with much civility and respect by Lord Chancellor Hardwicke, who favoured the Bill....The part, which Dr Secker took in this affair, did him not the least disservice with his friend, the Lord Chancellor," by whose support he was promoted soon afterwards to Canterbury. *Works of Arch. Secker* (1775), i. xix.

some of the bishops, including the Archbishop of York, having absented themselves, the clause was reinstated by a majority of five and the enactment became law.

Repressive legislation of this kind is always a choice of evils, and can only be defended by necessity. And here it is clear that the government could not permit with any prudence a great ecclesiastical organisation, whose chiefs were appointed by the avowed Pretender to the throne and disturber of public order, to maintain a secret and mischievous campaign against the Sovereign and administration established by law. And if such legislation can be defended also by its success and practical results, it has been fully justified, even by writers most hostile to the government, who acknowledge its ultimate benefits¹. It is of some interest also to note that the severe treatment of the Anglican Church in Scotland shows clearly that the repressive measures, enforced by the Government against religious bodies, were entirely free from the spirit of religious intolerance and persecution, and were actuated solely by political necessity.

Later, in 1752, an Act for annexing the forfeited estates to the Crown was passed. This was a measure connected with a large scheme of planting and colonising the Highlands with loyal and skilled labourers and farmers, fishermen and tradesmen, and disbanded soldiers, by which it was hoped to prevent the collusive restoration of estates to their former owners and to secure and increase the tranquillity and prosperity of the kingdom. It met with considerable opposition in the Lords, where the Chancellor made a strong speech in its support.

He pointed out the two objects kept in view by the government, and reminded the House that it was the plantations in Ireland that first transformed the spirit of the Irish and laid the foundation of the actual industry and improvement now observed there. The way of life of the Highlanders was, in times of peace, theft and depredation; in times of trouble, rebellion: only teach them the arts of civilisation, introduce manufactures and give them a taste for prosperity, and they would desire to keep and enjoy these advantages; for human nature was the same all the world over. Moreover, the development of the fisheries on the western coast was calculated to increase the naval resources of the nation².

¹ R. Chambers, *Hist. of the Rebellion*, ch. 31; J. Browne, *Hist. of the Highlands*, iii. 412.

² p. 622; *Parl. Hist.* xiv. 1235, where Lord Hardwicke's notes of his own speech are

The Bill became law by a majority of 30 to 12. The board of annexed estates did much good work, but the actual results of the measure were forgotten in the vast general advancement of Scotland to prosperity, which now immediately followed ; while in 1784 all the forfeited estates were finally restored to their former proprietors¹.

From this great constructive legislation dates the real union of the two kingdoms. The dream of so many kings and statesmen in the past had at last come true; and under the guiding hand of Lord Hardwicke, the successor of Bacon and of Somers, the strongest corner stone of the future empire was now laid firm and true. The most disaffected were soon won over by the priceless blessings of peace, good order and prosperity ; and the opposition in Scotland to the British government, which had been largely factious, completely disappeared².

“ They saw justice ably and impartially administered to rich and poor: none had anything to dread from the law but the rebellious and dishonest; whilst liberty of speech, in its full extent, was allowed to people of all parties : oppression was punished with great severity, especially when committed by landlords on their tenants; and where the party aggrieved was poor and friendless, the prosecution was carried on at the public expense. The crimes, which had formerly

printed; H. 99, f. 254; Walpole's *Letters* (1903), iii. 87, and *George II*, i. 264 sqq., where a long account of the debate and of the Chancellor's speech is given. Cf. also H. 100, f. 162, where Sir Thomas Brand, in a letter of thanks and praise to Lord H. of October 4, 1754, for his Scottish legislation, gives as an instance of his wisdom his “refusing a great man either grant or sale of a tract of land...because it penetrated into the heart of this great man's estate, and thereby became a curb upon any future proprietor that should turn rebel”; also G. W. T. Omund, *Arniston Mem.* 161.

¹ J. Ramsay, *Scotland and Scotsmen*, ii. 511, 515-6; Tytler, *Life of Lord Kames*, i. 284 n., 288 n.; Walpole's *George II*, i. 256 sqq.; for further Scottish reforms entertained see H. 99, f. 172, and for papers and correspondence relating to this legislation H. 98; for the project of the extension of the Marriage Act to Scotland see vol. ii. 72; for correspondence of the Chancellor with the Scottish judges on judicial and administrative reforms in Scotland see H. 98-101.

² H. 102, f. 128. The fact was noted, but its real cause not always perceived, by contemporaries. Thus the second Lord Hardwicke writes: “It would be a curious anecdote to know exactly what converted the Jacobites from their attachment to the Stuart family. Nothing in these papers throws any light upon it. I have heard that Mr Dawkins, originally of that party, but a sensible man, was sent abroad in this [1754] or the subsequent year to make enquiry into the young Pretender's real character, and that he returned with so unsatisfactory [an] account of him that the principal of the party *here* gave over all thoughts of him.” (H. 100, f. 179.) James Dawkins of Over Norton, a rich West Indian proprietor, had been sent by the Scottish Jacobites to Frederick of Prussia in 1753, at the time of the latter's participation in the Jacobite plots (see p. 538). In 1755, however, Dawkins, after a visit to the Prince, repudiated him as debauched and altogether impossible. A. Lang, *Pickle the Spy*, 198, 222.

been a reproach to the country and its rulers, became comparatively rare. In a few years the banditti, who had done most mischief, were brought to justice¹." Formerly mendicancy and vagabondage had been the curse of Scotland. According to Andrew Fletcher, of Salton, in 1698 a fifth part of the population were beggars, and half the owners of the land robbers². In 1769 Pennant was struck with the conspicuous absence of beggars³. "Thirty years ago," writes Johnson in 1773, "no herd had ever been conducted through the mountains without paying tribute in the night to some of the clans; but cattle are now driven, and passengers travel, without danger, fear or molestation." He visited Scotland too late to see "a people of peculiar appearance and a system of antiquated life." "There was perhaps never any change of national manners so quick, so great and so general, as that which has operated in the Highlands by the last conquest and the subsequent laws." He feared indeed that Scotland might become too exclusively commercial⁴.

Writing on July 31, 1759, to Lord Advocate Dundas, Lord Hardwicke declares himself "much comforted by what your Lordship says that the country is so very quiet, particularly in the Highlands⁵." Indeed, this same year, when Lord Hardwicke applied to Lord Breadalbane for his help in raising a militia in Scotland to defend the country against French invasion, he received for answer that the people were all settled down now to industries and the thought of arms had been banished from their minds; while to execute the projected measure would entail a great loss on the prosperity of the country⁶.

Upon this great series of reforms depend also that marvellous regeneration and revival of Scotland, that awakening from stagnation in which the kingdom had been engulfed and depressed for 40 years since the Act of Union⁷, that advance from poverty and

¹ J. Ramsay, *Scotland and Scotsmen*, ii. 504; J. Mackinnon, *The Union of England and Scotland* (1907), 481.

² Tytler, *Life of Lord Kames* (1814), ii. 226 sqq.

³ Pinkerton's *Voyages* (1809), iii. 45.

⁴ *Tour in the Highlands, Works* (1825), ix. 41, 53, 88, 90.

⁵ G. W. T. Omund, *Arniston Mem.* 161. ⁶ p. 621; H. 102, ff. 261-273.

⁷ Cf. *Letters from a Gentleman in the North of Scotland*. In 1733 the seaports of Fife are described as "heaps of decay." The shipping at Leith in 1692 was 1702 tons and in 1744 only 2285; population of Dundee in 1680, 6580 and in 1746, 5302; population of Glasgow in 1660 was 14,678 and in 1740, 17,034. The rent of land, wages, the price of food and clothing remained practically at the same dead level between 1640 and 1740. *Scotland and the Union*, by W. L. Mathieson, 349 and authorities there quoted; H. G. Graham, *Social Life of Scotland*, 145, 183. *New statistical account of Scotland*, vi. 129; cf. W. L. Mathieson, *The Awakening of Scotland*, 243 sqq.

barbarism, the suddenness and rapidity of which were without precedent in the history of Europe¹ and which constituted the miracle of the age. No doubt other natural causes were at work, without which mere legislation, the effect of which is generally exaggerated, has little result².

The failure of the Rebellion had led to the ruin of many Jacobite estates, which were occupied by new proprietors and new tenants, bound together by no sentimental or personal ties but associated for commercial purposes; and Scotch agriculture, hitherto a byword for neglect, became in the next century a model for England³. The economical condition of the country was greatly changed by the enhanced price of agricultural produce and the simultaneous developement of the Lowlands. The clan system disappeared before the higher civilization, with unlimited benefit to the community in general, but not without great hardships to individuals; for while the tenants were liberated from the jurisdiction and military service of the landlords, they were still in their power as regarded rent, and this was raised all over Scotland, sometimes to four times the former sum. Small farms and short leases gave place to larger holdings and longer agreements. Much individual misery was caused; homes were broken up and many tenants sank to the position of mere servants and labourers. Most fortunately, however, for Scotland, the monstrous and fatal institution of "judicial" rents, settled in the courts of law or by irresponsible government officials, that abomination of desolation, had not then been invented by politicians. On the contrary, the only measures passed now allowed for the first time the full play of natural and economical laws, and threw open the kingdom to competition and free developement, and no opportunist or party legislation was enacted to obstruct or divert the national progress of the country.

Thus from the pangs of a few individuals sprang to life, as if by magic, the regenerated Scotland of our own days. A healthy

¹ Lecky's *Hist. of England*, ii. 72; Sir W. Scott's *Waverley*, Postscript.

² J. Browne's *History of the Highlands*, iii. 416; Lecky, ii. 69 sqq.; Johnson's *Tour, Works* (1825), ix. 90; we cannot follow, however, the late Duke of Argyll, who in *Scotland as it was and is* (1887), 235 sqq. argues that the same developement in land tenure would have proceeded, had there been no liberating legislation; and the author's view is obviously somewhat prejudiced by his repugnance to allow that any good can have come from England. There is not a single acknowledgment in the work of the aid obtained by Scotland from England at this crisis in her history, and Lord Hardwicke's name is never once mentioned. (See also above, p. 592 n.)

³ H. G. Graham's *Social Life of Scotland* (1906), 153, 213.

discontent with the old order was everywhere aroused. The Highlanders emerged from behind their rocks; and soon along the high road that led to England, and to the world, could be seen moving forward those splendid bands of Scotsmen, who, destined to win renown on the field of battle, to build up fortunes through successful enterprise, to lead the way in literature and science, to rise to direct the fortunes of the State itself, or to carry the sacred flame of empire into the New World, have taken so glorious a share in the national life and have added, in the truest sense, a new lustre to the name of Briton.

Would that the same far-seeing judgment, wise statesmanship and strong, guiding hand employed here, had been directly applied to the settlement of other great imperial questions, not more difficult of solution in their beginnings than the Scottish problems but which, because neglected or treated by party or opportunist methods, were destined to lead to convulsions, to waste of strength and to national peril. Ireland then, permitted to follow unchecked its natural developement and to enjoy the benefits of new opportunities and a new civilisation, might perhaps have equalled Scotland in prosperity and contentment; and the American Republic, drawn every year closer by the ties of friendship and commerce and by the identity of national ideals, have remained a majestic commonwealth within the British Empire.

CORRESPONDENCE

Lord Glenorchy to Hon. Philip Yorke

[H. 103, f. 40.]

TAYMOUTH, June 26th, 1746.

...As to the five Bills you mention, the first, relating to the ward-holdings is a good one, though they have no relation at all with the rebellion.... Yet as 'tis a very disagreeable tenure, 'tis right to take it away. The second, for taking away the jurisdiction of the chiefs, I don't fully understand; but in the light I see it 'twill affect none but the friends of the Government, none of those concerned in the Rebellion (as I believe) having such a jurisdiction but the Duke of Perth and Lord Lovat. If that power is taken away from those who are attached to the Government, 'twill be exposing us to continual robberies, and thieves will start up every day in our own estates.... The loss of rent occasioned by poor tenants being robbed of their cattle is not near so great as the expense of prosecution before the Court of Justiciary. This law appears to me to be giving greater liberty to the common people, when they ought to

be curbed, and to encourage those, who were in the Rebellion and famous for thieving, to pillage the friends of the Government by taking from these the power of punishing them. Eighteen armed men came two days ago and plundered a farm in the corner of this estate. If any of those can be caught, I can try them at my father's Court and can imprison them or hang them; but if they must be prosecuted at the Justiciary Court, as the law now stands, I would not be at the trouble to take them if I could....The 3rd, for disarming the Highlands, is very proper; but 'twill be necessary to lodge a power somewhere of giving licenses to carry arms, otherwise the honest people and the King's friends will soon be ruined¹. ...The 4th, for putting down the Highland dress, I have no manner of objection to; but I don't see how it can be executed. Can the law oblige a man to wear breeches or can it hinder him to cover himself with his blanket (his plaid being really his blanket), if he pleases. If the word plaid is forbid, he may make it white; 'tis then properly called a blanket...The 5th, relating to the non-juring episcopal meeting houses, is extremely right; they are so many seminaries of Jacobites. I beg the favour of you to communicate to my Lord Chancellor my opinion of the five laws²....

Hon. Charles Yorke to Col. the Hon. Joseph Yorke

[H. 37, f. 67.]

April 13th, 1747.

...The Jurisdiction Bill was opened in the House of Lords with very general applause. The Lords of Session by their returns to the two resolutions of the House, transmitted to them by the Chancellor in August, had assigned several reasons to shew the great purpose of it improper and impracticable, that is the taking away of the Heritable Jurisdictions and distributing justice by the King's Courts and Judges. Lord Chancellor, therefore, took it into his own hands and prepared the draft of a bill by which the Heritable Jurisdictions were to be entirely abrogated, with a compensation to the proprietors, and certain new regulations to be made in the Sheriffs Courts and for the circuits. Upon the printing of this bill, which was planned without any assistance from [the] Scotch, a resolution being shewn to have no private regards for the interest of the great men in Scotland, the lawyers of that country then thought it their duty to contribute towards perfecting the new scheme. By the accounts I have heard, it seemed to the ablest of them liable to two objections, (1) in respect of the compensation to the barons which would swell the expense to a vast amount, at the same time that their jurisdictions are mostly dormant; yet every

¹ On July 16, 1748, writing to the Chancellor, he again urges the necessity of giving back arms to the well-affected to defend themselves against thieves. H. 102, ff. 171, 189.

² And see also H. 103, ff. 44 and 74, where he makes recommendations for the better management of the Highlands.

man who has a landed estate of £50 per annum, being possessed of, or pretending to, such a right, would have come in and claimed the money, setting an imaginary value upon it; (2) in respect of the necessity there is in many parts of the country to leave a jurisdiction in very petty trespasses and offences, and in civil contests to the value of a sheep or a cow between tenant and tenant. The leaving this kind of jurisdiction, it was suggested, would but leave to the barons such powers as Justices of [the] Peace have in England, and every little gentleman would be upon the same footing in this point with the greatest lord in that Kingdom; so that the general policy of the bill would not be hurt by such an alteration in regard to the authority of barons and heritors of land; whilst all higher jurisdiction of every kind was restored to the Crown and the King's Courts. Lord Chancellor therefore consented to the alteration proposed; and the consequence of it will [be], not only to make the bill more popular in Scotland and agreeable to the sense of the lawyers, but will clear away that great difficulty (which indeed weighed with everybody) arising from the making a satisfaction to the barons for what is taken from them, who will now have none. After the first reading in the House of Lords, it was suffered to sleep there by reason of the money clauses, which the Commons would never have received. And it has since been brought into the House of Commons with this alteration which I have stated to you, and some others in minuter parts of the bill, which I will not attempt to explain to you. There is a considerable opposition raised against it, consisting of the Tories, and Jacobites and Scotch. They say it is a violation of the Treaty of Union and will neither be expedient or effectual. Those of the Scotch, who pretend to be the best affected towards it, doubt whether it will signify anything. But there cannot be a better presumptive proof to the contrary than the reproaches which old Lovat made the other day to Sir H. Monro¹ and Ludovic Grant² on their voting for it on a first reading. "Don't you know," said he "that our Highland estates will now become good for nothing?" What could be the meaning of those words but this, that he knew, when once the sources of influence and authority over the people (of which this is a principal) were destroyed, that the great men of Scotland would not be able to make such good terms at Court for the future as they have been used to do? Nineteen Scotch in the King's service voted with the minority against so much as reading the bill a second time, young Jack C[ampbell] amongst them, and the old one away³. This tends to raise some resentment among the honest at their chief. The squadron of a certain court⁴ take no part as yet; but it is imagined they will to-morrow and against the bill too, if it can be made a strong

¹ Sir Harry Monro, seventh Bart. of Foulis, M.P. for Ross-shire.

² Sir Ludovic Grant (1707-1773), son of Sir James Grant of Grant, Bart. His aunt had married Lord Lovat in 1716.

³ John Campbell of Mamore and his son, afterwards fourth and fifth dukes of Argyll.

⁴ The Prince of Wales's.

point for a division. People not expecting any debate on the first reading, the House was thin that day and it was within 10 or 15 of being thrown out. I hope it will be better attended to-morrow: otherwise the government will be ruined merely by its own negligence.

Lord Chancellor to H.R.H. the Duke of Cumberland

[H. 241, f. 211.]

POWIS HOUSE, April 16th, 1747.

SIR,

[After thanking the Duke for his kindness to his son].... Your R.H. has been fully informed how deeply we are engaged in Scotch Reformation which your indefatigable labours and glorious success on the day, which makes the date of this letter, has given us the opportunity of. In this measure I have laboured the more incessantly and with the greater satisfaction, as I was sure I was pursuing your R.H.'s plan and ideas. What turns the affair itself has taken, as well as some of the persons who professed to co-operate in it, you must have heard from others; and had it not been for the wise and great part the King has been pleased to take, his steadiness and unmoved resolution and open avowal of the weight His Majesty justly laid upon it, I fear it had not been now in so good a state as the last majority has left it in. I have sent Joe a printed copy of the bill, as it is now before the House of Commons, by which your R.H. will see the variations I was forced to make from that which I brought into the House of Lords. I hope they will not be disapproved by you, and that they may be less so, I beg leave to explain the most material one, I mean that which relates to the jurisdiction of the barons Courts. The necessity of this alteration arose from various causes. 1. The poverty of the country, where their farms are so small and their tenants so poor, that it is universally represented as absolute ruin to them if they shall be obliged to travel far and employ lawyers to obtain redress in such small trifling demands. 2. All the people of Scotland, even the best intentioned to the bill, concurred in this, viz. Lord Findlater¹, Lord Leven², Dundas³, Craigie⁴ etc. 3. As

¹ James Ogilvy, fifth Earl of Findlater, and one of the chief supporters of the Government in Scotland. See p. 515 n.

² Alexander, fifth Earl of Leven and fourth Earl of Melville, a Lord of Session and High Commissioner to the General Assembly.

³ Robert Dundas, Lord of Session, succeeded Duncan Forbes, on the latter's death in December this year, as Lord President. See p. 550 n.; and for a correspondence asking for this promotion and for other favours H. 98, ff. 207, 211, 286, and G. W. T. Omond, *Arniston Memoirs*, 99 sqq.

⁴ Robert Craigie, Lord Advocate. See above, p. 442 n.

almost all the lands of Scotland are erected into baronies, the English began to dread the prodigious sum, the giving satisfaction for those jurisdictions would make the payment amount to, which would have been a dangerous weight upon the bill¹. 4. This jurisdiction, which don't exceed what our Lords of the Manors in England have, is so small in itself and so spread and diffused, that when the powers of the great Lords and Chieftains are taken away, I really think it will, as now restrained, be of no ill consequence. Upon this head I will venture to throw out to your R.H. an argument from history which has some weight with me, though it comes from a hand not to be quoted in public nor scarce mentioned to any Prince below your R.H.'s discernment and largeness of thought, I mean Cromwell. That usurper abolished all the great heritable jurisdictions at once, without giving any compensation for them; but at the same time preserved and established in the barons' Court the same jurisdiction which is left to them by this bill. This appears by the history of his time and his two ordinances for this purpose which are in print; and nobody can imagine he would have done it, if it would have left an influence capable of giving disturbance to his government.

I have troubled your R.H. the longer on this head, because I find this alteration did at first affect many good friends to the Bill: but the truth is that the objection raised against it was a strategy of the enemy; for in order to cool the zeal of our friends, they represented this alteration as having spoiled the Bill, at the same time that their interested and industrious opposition to it proved their opinion that the Bill as altered would have the good effect we wished for.

I rejoice to find by your R.H.'s last letter from Alphen that the junction is formed and that you are at the head of so fine an army.

[Concludes with best wishes.]

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 267.]

April 18th, 1747.

...I have much pardon to ask of H.R.H. for presuming to trouble him with so long a letter, which should have gone by the last post. But it was my duty to thank him for this fresh instance of his goodness to you, and I could not help, at the same time,

¹ Lord Chief Baron Idle, in a letter of April 8, 1747 (H. 98, f. 160), points out that the buying up of these jurisdictions at £100 each would amount to £300,000.

giving him a full account of the state of the Bill about the Scotch Jurisdictions. I have endeavoured to pursue his sentiments, and should be very sorry to fail of his approbation. We have had here as scandalous a collusion in this measure as I suspect I see in *another*, on your side of the water¹....We long to hear good news of you, so good that you may bring it yourself with a score of postilions. My blessing always attends you, [etc.]

HARDWICKE.

Lovat died a Papist and left a short, silly, weak paper behind him....

I have sent you the inclosed copy of the Bill, as it is in the House of Commons. It has cost me more pains than ever any Parliamentary measure did, and in truth more than was fit for my busy station. The chief alteration is in page 7.

Lord Chancellor to Duncan Forbes, Lord President of the Court of Session in Scotland.

[In answer to a letter from the latter of March 5, 1747 (H. 98, f. 155), pointing out several technical defects in the Heritable Jurisdictions Scotland Bill and advising especially the retention of the barons' jurisdictions for the settling of petty offences, which was afterwards adopted in the measure.]

[H. 98, f. 162.]

TWICKENHAM PARK, April 23rd, 1747.

MY LORD,

I take great shame to myself and ask much pardon of your Lordship for not acknowledging the honour of your obliging and instructive letter before now. But though I have read it over often, and with great advantage, yet the multiplicity of business which oppressed me has not allowed me time to answer it till my coming to this place has afforded a little recess. I must, in the first place, beg to assure your Lordship with great truth that it gives me uncommon pain whenever I differ from you, of whose abilities I have the highest opinion, and for whose sentiments I have the utmost regard. But whenever we differ, I know we differ as friends always should do, with a real indulgence to one another and with a sincere disposition to be convinced.

As your Lordship has avoided entering into the general principle

¹ The allusion is probably to the opposition and obstruction shown by the allied generals to the plans of the Duke of Cumberland.

of the resuming part of the Bill, I will not trouble you much upon it. These are my general reasons: 1. That the establishing such a number of private heritable jurisdictions was a wrong model of government from the beginning. 2. That it has tended to the oppression of the Commons of Scotland. 3. That it has too much weakened the Crown and cast the dependance of the people into an improper scale, which inconvenience has been accidentally increased since the Union. 4. That this is become still more dangerous by reason of the existence of a pretending family to the Crown. As to myself, besides one private connection of my own there, the general call of the people and the part which the concurrent opinion of the Administration had thrown upon me, made it impossible for me to act otherwise than I have done. In carrying it on, I have been studying to conduct myself with that becoming respect to Scotland and the people of it in general as well as to particulars, [so] that I have given no occasion either of national or personal offence. How it may have been represented to your Lordship I know not, but I can with the strictest truth aver that, as to yourself and the Court of Session, I am not conscious of having failed in the least point. In considering their Return, I treated them as a most respectable Judicature, mentioned those amongst them, whom I had the honour to know, as persons for whom I had the highest value, proposed an agreement with them in many things and when I differed, used no expression but such as I would have used in debate to the greatest Lord in the House, from whom I had differed in opinion.

Having troubled you thus far in general, both as to matter and manner, I come to the particulars wherein your Lordship proposed alterations.

I own I thought your reasons as to the jurisdictions of the barons' courts very strong, and therefore submitted to make the alteration in the plan, which you find in the printed bill as brought into the House of Commons.

As to the clauses about suspensions¹ before the Circuit Courts, I was sensible of many defects in it; and therefore proposed that extraordinary clause for supplying them by acts of Sederunt, which was praying in aid of the superior knowledge of the Court of Session. But the sum of *thirty pounds* was an error in transcribing the bill, for though it is true that sum was thought of even by several Scotch lawyers, it ought to have been left a blank. That scheme

¹ *i.e.* Appeals.

is now changed to a plainer method of appeal, which I hope will succeed better, and is not proposed to be carried further than £12.

I thought your Lordship also much in the right as to the share of the fairs, which has been usually applied for the encouragement of the Procurator Fiscal, and made an alteration to comply with that opinion.

Some odd turns and appearances have shewn themselves in the progress this Bill has made hitherto, part of which I expected, though not quite so strong. I will not enlarge upon them here, but if I could have the happiness of an hour's conversation with your Lordship, some of those incidents would serve to make us laugh.

Upon this subject, which has given you, as well as me, a great deal of trouble, I will add no more but to beg your Lordship will do me the justice to believe that, if I was not entirely convinced that this measure, as well as that of taking away the ward holdings, was as salutary for Scotland as for England, nay of more eminent utility to Scotland, I would by no means be for it. I never considered the interests of the two nations as separate, and I think those the greatest enemies to both who do so.

It has given me much concern to hear that your Lordship has been indisposed in your health, which I hope the recess of the vacation has restored; for no person in the world can more readily wish your welfare and prosperity....

*From the Lord President of the Court of Session
in Scotland to the Lord Chancellor*

[H. 98, f. 196.]

STONY HILL, April 28th, 1747.

MY LORD,

This morning I had the very obliging letter which your Lordship did me the honour to write to me from Twickenham, of the 23rd, with a very needless excuse for your not having sooner answered a letter of mine of an old date; and with a defence still more unnecessary of yourself against misrepresentations, which you suspect may have been made of your conduct, in relation to the bill now depending. With respect to the last, the just esteem I have for your Lordship is too well known to high and low in this country to permit any misrepresentations of your conduct to find their way to me; and if they did, the familiar acquaintance with which your Lordship has for many years honoured me, and the perfect knowledge I have of your motives and manner of acting, in everything that relates to the good of the public, would secure my mind against being touched by any such false representations, should

any fool be hardy enough to fling them out. The sphere, in which my good stars have confined me to act, has been always narrow, and therefore few of my little transactions have fallen within the public ken. But if your Lordship was as well acquainted with the principles that guide me, as I am with those that determine you, I should not, though I have the honour to have some detractors of note, fear that these misrepresentations would stick with your Lordship. On the contrary, I am satisfied that when I leave this world you would say you had lost a friend.

As to the first, when recess from the business of the Court, to which I belong, gave me leisure to trouble your Lordship with a long letter about the Jurisdiction Bill, I knew I was writing to a man who had not a minute to bestow on ceremony, hardly two to bestow on the common exigencies of life. I trusted that your Lordship would, from the principle that guides you, not only take it in good part but consider it so far as it suggested anything for the public service. But I had no notion that your Lordship was to sit down to make a regular answer; and I see with some satisfaction that some parts of the Bill, to which I had objections, are altered, though others, in respect to which my reflexions have not made such impression, are not.

As to the main scope of the Bill, your Lordship knows perfectly well my sentiments. I feel your Lordship's motives and think the end desirable, nor have I ever anywhere held a different language. The only article ever I doubted of on this head was the expediency. I proposed my doubts to those concerned in taking the resolution, as my duty required; but as they were much better judges than I am of what is, or is not, fit to be done, there I left it and have never signified a different opinion. What your Lordship suggests as matter fit to produce laughter, were it to be explained in conversation, I guess at: and I must confess I have heard of some things that made me laugh in my sleeve, as the saying is in this country, and I should have been surprised at them, if anything that comes from that quarter could surprise me.

As to the project, which I consider but as accessory to the main design of the Bill, of trying small civil causes at the circuits, I exposed my sentiments to your Lordship heretofore. The scheme then devised of bringing those causes to be tried in the form of suspension has been changed, but then it has most certainly been changed for the worse. Appeals at the discretion of the litigious will produce much, and what is worse, irreparable, mischief to the lower class of mankind. But I have wrote so much on this subject to our Lord Advocate, [William Grant] whose complaisance against his own opinion I blame, but who, I hope, will be so just to your Lordship and to this poor country as to impart the advices he has received, that I flatter myself this part of the Bill will be dropped in the Commons House. If that should not be the case, I look upon the thing to be of so much consequence that I can venture to conjure your Lordship by those interests that you have

most at heart, your own fame and the concerns of the helpless, to consider it well before it pass the House of Lords¹. If my Lord Advocate has omitted to shew your Lordship what I wrote to him, I can send you copies. The liberty I have already used is full proof that I believe you look upon me as being, what I most certainly am, your Lordship's most faithful and most obedient humble servant,

DUN: FORBES.

*Hon. Elizabeth Yorke to Col. the Hon. Joseph Yorke
with the army in Flanders*

[H. 39, f. 30.]

POWIS HOUSE, May 25th, 1747.

...The House of Lords was engaged to-day in the Committee upon the Jurisdiction Bill, and I suppose a day or two more will carry it through. There was a long debate upon the committing of it last Thursday in which Papa did not speak, but left the bill to be supported by others upon his own reasons; for by what I can hear, there was nothing new urged either for or against it, which indeed is easily credible, considering how much has been said upon the subject before. The Duke of A[rgyll] made a long speech first, and gave a dreadful representation of the Scotch constitution and the lawless condition of that country before the Union; but in general, I hear, his speech was such in support of the bill as would have afforded great matter of objections against it, if the speakers on that side had known how to make use of it. Our friend, Lord Findlater, spoke for it and did very well; Lord Berkeley of Stratton and Lord Tweeddale spoke also on that side, which I mention to shew it was approved of by Lord G[renville], though he did not think proper to speak himself. The Duke of Beaufort began the debate against it; Lord Morton also made a long speech on that side, but concluded with saying that he hoped those Lords that should vote against the bill would not protest; for that he knew those papers did great harm abroad, and he had seen above 30 different manifestos and declarations of the Pretender's, the greatest part of which were taken out of the protests of that House. The debate concluded with a division of 79 to 16: 3 of the latter were Scotch, the Earls of Sutherland, Morton and Murray: the other 13 were English....

Most affectionately yours,

E. YORKE.

¹ See the Clause No. xxxiv. *Statutes at Large*, xix. 138 and below, p. 614. This great man died on December 10 of this year (see above, p. 607 n.).

Hon. Philip Yorke to Col. the Hon. Joseph Yorke

[H. 15, f. 163.]

May 29th, 1747.

...The Lords had a debate on committing the Scotch bill... Ayes 79, Noes 16. The turn of the Duke of Argyll's speech was that these jurisdictions had been a security to the liberty of the people in the reign of arbitrary and violent princes, when the Scotch Privy Council acted as the instruments of their tyranny; but since prerogative had been circumscribed at the Revolution and our liberties were under the constant inspection of the Parliament, he thought it more expedient they should be abolished and justice administered by the King's Courts: that if any of the Heritable Jurisdictions deserved to be taken away, it was his own, which was the highest and an exclusive one, which had been a constant source of uneasiness to himself, lest it should be abused by his *Deputes*, of jealousy on the part of the Crown and of envy from his fellow subjects. His Grace was long and learned, unmethodical, but full of good matter. Lord Chesterfield spoke well, but in a graver and less florid style than when he was in opposition. Lord Morton spoke the best of the opponents, but protested against protesting which had such an effect upon his countrymen that not one of them signed the protest, which was entered by 10 English lords the day after, at which the others were so angry that they have not once attended the progress of the bill since. Lord Tweeddale, in the Committee, was for leaving out the clause which empowers the judges on the circuits to try civil cases as far as £10 value, on appeal from the Sheriffs' Courts. It seems the Scotch lawyers are generally against this provision, as taking some of the business from Edinburgh; but my Lord answered him very effectually and shewed that it would be an ease and saving of expense to the people of Scotland and no breach of the Union, which the other had suggested it would be. Lord Granville supported my Lord, and has done so very heartily through the whole bill. He knows he shall not be the worse for it at St James's. His R.H. [the Prince of Wales] has observed a neutrality and most of his servants have absented themselves whenever it came on....

*Lord Chancellor to Robert Dundas, Lord Arniston,
Lord President of the Court of Session*

[H. 98, f. 262.]

March 26, 1748.

...I am very sensible how much I grope in the dark and how much I stand in need in [?] of good instruction when I (?) submit new regulations of this kind relating to Scotland; but it is very difficult to find persons here who will take any pains in such a work; and I have really so ardent a desire to see the Union perfected, to render the English and Scotch really one people and to extirpate

the spirit of Jacobitism for the mutual good of both nations, that I hazard such attempts a little at the peril of my discretion....I heartily congratulate your Lordship on the Court of Session having finished the laborious task imposed upon them by the late Act of Parliament about the Heritable Jurisdictions. The justice which, so far as appears to me, has been done between the public and the particular persons concerned, and the ability and dispatch with which it has been carried through, do great honour to the Court and to the part your Lordship had in it....

Lord Chancellor to the Duke of Newcastle

[N. 30, f. 32.]

May 8th, 1748.

...Tuesday is appointed for the further consideration of the clause in the Scotch Bill about episcopal orders, which I mention'd to your Grace last Thursday night. There seems to be a great alarm in the whole Bishops' Bench. I have us'd all the reasoning and entreaties with them I can, but have not power to prevail, tho' I hope your Grace may. I had a meeting on Saturday with both the Archbishops, who for themselves are very reasonable on the subject. But to-night I received a letter from the Archbishop of Canterbury, which tells me that several of the bishops have been with him and entreated him to ask it of your Grace and me, as the common and most earnest request of the whole bench, that the clause may be dropt. This must be consider'd, for I cannot take it upon myself; and if discreet measures are not taken, mischief may be done on one side or the other. If the clause should either be left out or alter'd, and the Commons should disagree with us, that will produce conferences, and then either the Session will be prolonged, or the whole bill, which is a very useful one, be lost. Both the foundation of this, and the methods to be taken, deserve attention....

Sir Richard Wolfe to Simon Yorke Esqre of Erthig

[Erthig MSS.]

LINCOLNS INN, 12th May, 1748.

...In 1746 a Bill passed requiring that, after the first of September 1746, no letters of orders of any pastor or minister, of any episcopal meeting or congregation in Scotland, should be sufficient or be admitted to be registered, but such as have been given by some bishop of the Church of England or Ireland; and if any such other than such as before described should be registered, such registration should be deemed void; and gave penalties

against such persons officiating and against those resorting to their meetings.

The episcopal clergy in Scotland, being by bishops of the Pretender's making, the above law was intended that if any of them officiated without having *powers* from the bishops of the Churches of England or Ireland, they should be disqualified etc. But the Jacobite rogues, who had been ordained by the Pretender's duns and had registered before the 1st of September 1746, continued officiating under pretence the act did not extend to any letters of orders, which had been registered before the 1st of September. By this the present set of these ministers would have been preaching treason and sedition the remainder of their lives against the plain meaning of the Act ; for the Courts in Scotland had been applied to and would not stop them. Therefore there was a bill brought into, and passed by the Commons, to explain the above doubt. And the Lords were in a committee upon it upon Tuesday last, when 20 bishops were present, who all of them voted against the explanatory clause....

The reasons given were that as the episcopal clergy, before the above Act was made, had conformed to previous laws, this law would put a great hardship upon them : for that there could be no re-ordination ; and as to those who have not been ordained and should apply for letters of orders, they, according to our law, could not be ordained, unless first properly provided etc. Probably this may be good reason among ecclesiastics, but I think not so with regard to the welfare of the State. However, the bishops for once carried their point against the ministry by a majority of two, but yesterday, upon the report, the bishops lost it by a majority of four....

[On the 1st of November, 1748 [H. 98, f. 318] General Bland¹ writes to relate the incident of the refusal of the Duke of Atholl's vassals to drink his health, and of their drinking that of those who had restored them to freedom, and of the failure of their prosecution by the Duke. It would be now seen all over the Highlands that the people could no longer be oppressed by their chiefs, and that their sole dependance was on the King.] As the good laws lately passed for this country was chiefly framed by my Lord Chancellor, and presuming his Lordship would be pleased to hear of any good effect resulting from them....

From the Rev. Patrick Cuming, Moderator of the General Assembly of the Church of Scotland, to the Lord Chancellor

[H. 99, f. 11.]

EDINBURGH, May 27th, 1749.

MY LORD,

I am appointed by the General Assembly of the Church of Scotland to return your Lordship their sincere thanks for the

¹ See pp. 471 n., 622.

countenance you gave to a scheme for establishing a fund for the widows and children of the ministers of this Church. We formed a rude draft; under your eye it rose into a regular plan and by your assistance it was authorized by Act of Parliament; and afterwards rendered as perfect by the amendments it received, as so extensive a scheme is capable of being made. The relief it will give to those, who must otherways be poor and destitute, will perpetuate the memory of your Lordship's generous goodness to this Church; and children yet unborn will tell with pleasure that Lord Hardwicke was Chancellor of Great Britain when this act was made.

The choice the General Assembly have made of me to be their Moderator is so much the more honourable, and the burthen it laid upon me is so much the less grievous, that it gives me an opportunity of declaring the deep sense they have of your Lordship's great abilities, equity and public spirit, the effects of which are felt by those who live in the remote and barbarous parts of the Island, as well as by those who, in the Metropolis of the Kingdom, every day see with what dignity you fill your high and difficult station.

I think myself happy to have this occasion of expressing the high esteem and veneration with which I am, [etc.]:

PATRICK CUMING, Moderator.

[The Chancellor's answer, f. 15.]

Lord Chief Baron Idle to the Lord Chancellor

[H. 99, f. 63.]

WESTOW, March 23rd, 1749.

MY LORD...

I am afraid no great advantage will accrue to the public from the forfeitures; but it is very clear to me, the laws lately made will be of infinite service in quelling that unruly spirit which has bred so much disturbance, and will fix the government on a firmer foundation than has ever yet been known or, from past essays, could be hoped for; and I have as little doubt this safety will be owing to your great ability and honest vigilance, and will, my Lord, if posterity does justice to the cause, be kept in remembrance as a monument of your glory....There is a meeting house, called by way of eminence the English Chapel...where the Church of England service is used and the King prayed for by name, I am confident much against their inclinations; for instead of being serious, when that part of the service occurs, they shut their books, laugh and ridicule those who are of grave and serious deportment, and I believe often get up and vary their gestures. But I trust these are few in comparison of the many well-affected. [He sends a list of the claims to the forfeited estates, in number about 1485.]

[On December 21, 1749 [H. 99, ff. 37, 54, 56, 63], the Chancellor received an anonymous letter relating, according to his endorsement: "to the insolence of the Jacobites on the Pretender's eldest son's birthday," viz.: the fixing of streamers of white ribbons in his honour to the top of the highest steeple in Edinburgh. Enquiries were made of the authorities when it was replied that, "the banner which was displayed did not discover much opulence in the persons who contrived the insult, for it was an old linen rag, tied in a very clumsy manner to a crooked stick; it could not cost two pence and was not worth one farthing." The bellman, however, was summarily dismissed¹.]

From the Lord Justice Clerk of Scotland (Charles Erskine, Lord Tinwald) to the Lord Chancellor

[H. 99, f. 110.]

EDINBURGH, August 8th, 1750.

...The law prohibiting the Highland dress has as universally been complied with as, in the beginning, could well have been hoped for: education, inveterate custom, some conveniency to such as live among the mountains from that manner of clothing themselves, actually made them averse to the alteration: however, though in remote parts where inclination and hopes of impunity concur, in this, as in other crimes, there will be offenders; yet by holding a watchful eye over them I'm persuaded the statute may, in a very little time, have its full and desirable effect. I hear that lately, between Fort William and Fort Augustus, a small party of the troops spying one in Highland dress, gave him chase; he took into a wood but was apprehended; but as they carried him through the woods, a mob of women and some men surprised the party and rescued the prisoner, who since that time is retaken with some of the accomplices in the rescue, is committed to jail, and orders are given for prosecuting them....

*T. Blackwell of Marischal College, Aberdeen, to the
Lord Chancellor*

[H. 99, f. 147.]

ABERDEEN, Jan. 15th, 1751.

MY LORD,

Amid the important cares of your exalted station nothing but the subject of this address could excuse it from presumption.... Of all the unhappy people engaged in the late wicked rebellion, the Lord Forbes of Pitsligo was the only man of distinguished morals in his private character, and no less distinguished by the mildness

¹ For another letter from the same anonymous correspondent, "Your Lordship's great admirer," relating to the ill-distribution of the King's bounty in the Exchequer of Scotland to the disaffected, of which a copy was sent by the Chancellor to Lord Chief Baron Idle and the latter's answer, see ff. 97, 115.

of his conduct in public, through the whole of that lawless period. He was the refuge and protection of the prisoners, when ill-used by the other rebels; and while they were extorting money or rifling houses, a particular accident made me know that he was reading the Emperor Antoninus's Meditations in the original¹.... My avowed and inviolable attachment to our matchless constitution permits me without suspicion of prejudice...to assure your Lordship that, setting aside the effects of the silly but wide-spread principles of hereditary indefeasible right,...the whole of Lord Forbes's life has been a tract of such unblemished virtue and humanity that...his pardon will reflect honour on the administration². [He adds other reasons, his age, the merit of his only son.] Before I conclude, let me have the honour of paying to your Lordship a small part of the homage due from every man in North-Britain, who loves the prosperity of his country and his own liberty. The breaking the hereditary jurisdictions, fixing our sheriffs and doubling our circuits of assize, has freed us from a heavy yoke, and substituted a noble and salutary administration of justice in its room. May Almighty God bless your Lordship with long life, health and prosperity to be, what you are, the ornament and blessing of the nation....

Your Lordship's most...obliged servant,

T. BLACKWELL.

*Lord Chancellor to Robert Dundas, Lord President of
the Court of Session*

[H. 99, f. 190.]

WIMPOLE, Sept. 22nd, 1751.

...I am extremely obliged to your Lordship for the account³ you have been pleased to give me of what passed at the opening of the new Commission of the Peace for the County of Edinburgh, which reached me at this place two days ago. 'Tis the part of a friend to apprise one of objections made to any measure, whether well-founded or not; because it tends to give light, either of one kind or another. I would by no means be thought responsible for the faults or mistakes that may have happened in the Scotch Commissions of the Peace. I should be sorry to be thought so for those in the English Commissions; but in North Britain I cannot pretend to judge of the characters of persons, but am forced to see with the eyes and hear with the ears of others...[It had been

¹ This would appear scarcely a sufficient ground for the favour of the Government.

² Alexander, fourth and last Lord Forbes of Pitsligo (1668-1762), Jacobite, had taken part in both rebellions and was attainted in 1748; after Culloden he remained in hiding till his death. He was a man of great piety, a quietist and mystic, and published *Essays Moral and Philosophical* in 1734.

³ H. 99, f. 188.

thought right to appoint some military officers on the Commissions, on account of the exceptional condition of the country. His Lordship had acted very rightly in endeavouring to dissuade the gentlemen nominated from their refusal to act.] Nobody knows better than your Lordship that it is their duty so to do, and that a particular dislike to two or three persons, who happen to be put into a Commission, consisting of great numbers, is no excuse for not executing a public trust....

Lord Chancellor to Andrew Macdowall¹, who had desired leave to dedicate to him the second volume of his 'Institute of the Laws of Scotland in Civil Rights.'

[H. 99, f. 194.]

POWIS HOUSE, Oct. 10, 1751.

[After expressing his thanks for the honour,] I have no pretension to the patronage of a learned work on the law of Scotland, except my sincere zeal to support the laws and constitution of the whole United Kingdom and to see the happy Union between both the parts more firmly connected, and to countenance those who act on such principles. If you should adhere to your intention of doing me the honour you mention, I desire it may be only by way of inscription, dedications being what I never much approved....

*The Lord Provost of Edinburgh [Drummond] to the
Lord Chancellor*

[H. 99, f. 275.]

EDINBURGH, Aug. 22nd, 1752.

MY LORD,

There has been more real good done to this part of the United Kingdom during the currency of the present Parliament, than ever has been done for it since it was a nation. The attention shown to its interests, and therein to the interests of United Britain, by the administration and by your Lordship in a very distinguished manner in the abolishing of the jurisdictions, the appointing well-qualified and well affected Sheriffs, the regulating the circuits of the Judges, and the annexation act, from the execution whereof the most valuable advantages may be hoped for, encourages every good subject to think in what manner, in his capacity and proper character, he may contribute to promote the real interests of his country. [Encloses a pamphlet of proposals².]

¹ Raised to the Bench in 1755 as Lord Bankton; died 1760.

² In July 1755, the Chancellor's eldest son, now Lord Royston, while on a visit to his

Lord Chancellor to the Lord Provost of Edinburgh

[H. 99, f. 277.]

WIMPOLE, Sept. 24th, 1752.

MY LORD,

I am doubly obliged to your Lordship for the favour of your letter and the pamphlet which accompanied it. The proposal for improving and adorning the City of Edinburgh is certainly extremely right in general and deserves much countenance and encouragement. But what gave me far the greatest pleasure was that which has given rise to the scheme, I mean the prodigious increase of manufactures, commerce and shipping in Scotland of late years, which, as it will be the source of wealth and plenty, will, I hope, be productive of peace, loyalty and good order. When the people feel such real and solid advantages, they must at last be convinced of the utility of the Union and the happiness of living under a free, legal and gracious government of the best of Kings. It is with these views that I have taken the part which your Lordship is pleased to acknowledge so much beyond the merit of it; and I shall think myself amply rewarded, if I can see the improvement of North Britain go on in the same, or a still greater proportion....

Lord President of the Court of Session (Robert Dundas¹) to the Lord Chancellor

[H. 99, f. 311.]

EDINBURGH, Jany 14th, 1753.

...I think it my duty to observe to your Lordship where I humbly think there are defects in the management of the King's affairs in Scotland, I mean particularly the affairs of the Revenue. If these matters be not in good hands, things cannot go well, and the event of trials in the exchequer show too much of this at present where, right or wrong, the King's lawyers are mostly cast. The reason is plain. I shall say nothing of the Advocate²: he is well employed in private business, loves his money better than public business; and he hath seldom any assistance except the two

father-in-law, Lord Breadalbane, at Holyrood, was made a burgess of the City of Edinburgh "in testimony of their grateful sense of the many eminent services done to Great Britain by the Right Honourable Philip, Earl of Hardwicke, and his Lordship's particular attention to the improvement of this part of the Kingdom." (H. 3, ff. 298, 301, 303.)

¹ He died August 26 of this year.

² Robert Craigie, who succeeded the writer as Lord President. See p. 442 n.

Solicitors¹, the one of which is now quite daisied, as we express it, and the other never had any law: there is not one in the Bar who can excel him in want of knowledge of law. How they come to be employed is not fit for me to explain, because it would disoblige a great man², if he knew it, whom it would be too insolent in me to offend: we have a Scotch proverb, some rise by the sword and others by the scabbard. [Proceeds to complain of the non-payment of a sum of £1000 lent by him for the public service, of which, however, he has no documentary testimony.]

Lord Chancellor to General Bland³ commanding in Scotland

[H. 100, f. 63.]

POWIS HOUSE, Feb. 7th, 1754.

[Thanks him for his letter which press of business has hindered him from answering.] You do me a great deal of honour, as well as justice, in the opinion you express of my way of thinking and acting with regard to Scotland. I have proceeded, and shall continue to proceed, upon the uniform principles of extending the vigour and benefit of the laws over the whole country; of suppressing all private power that tends to obstruct the due course of these laws and the proper influence of his Majesty's government; of civilizing and improving the country and making them feel the advantages of property, and upon these solid foundations to build up loyalty and good affection to the King and his family. I always looked upon the annexation bill as a measure justly calculated for these ends, and in that view promoted it to the utmost of my power....

[In 1754 the celebrated Henry Home, Lord Kames⁴, wrote to the Chancellor, sending papers on his great project of assimilating

¹ Haldane and Home, Solicitors-General.

² Duke of Argyll.

³ Humphrey Bland, see above, pp. 471 n., 616; a friend and correspondent of the Chancellor's. See his letter of November 26, 1754 on the necessity of appointing as Secretary to the Commission on the forfeited estates a person impartial and independent of all parties, and advising that he should be an Englishman; Oliver Cromwell had set a good example by sending English judges to regulate the Scotch Courts, whose decrees were never reversed at the Restoration and were still admired. It was almost hopeless to think of reforming the country through Scotchmen, the best of whom, by their connections, must be biased; (H. 100, f. 210); and Robert Dundas, President of the Court of Session on the same topic (f. 206); of General Bland the second Lord Hardwicke writes (H. 100, f. 187): "This gentleman married a smart young Scotchwoman (now living) whilst he commanded there. She was the handsomest about the legs I ever saw, and did not dislike to show them. Lady B.....m is the next I have seen well shaped in that article."

⁴ Henry Home (1696-1782), Lord Kames, Lord of Session in Scotland, the well-known author of *Elements of Criticism*, *Principles of Equity*, and numerous legal and other works.

the laws of Scotland with those of England, to which the following is a reply.]

Lord Chancellor to Henry Home, Lord Kames

[A. F. Tytler, *Memoirs of Lord Kames* (1814), i. 294.]

WIMPOLE, Oct. 17, 1754.

MY LORD,

The letter of Sept. 18th, with which you honoured me, should not have lain so long unacknowledged, if the usual resort to me at this place and at this season, had not made it unavoidable. I am extremely obliged to your Lordship for this mark of attention to me; but more for that zeal which you express for improving and perfecting the union of the two Kingdoms, to which nothing can contribute more than an uniformity of laws. Those great men, who conceived and framed the plan of the Union, who felt *quantae molis erat Britanniam condere gentem*, wished to attain it; but found it impracticable in the outset; but I have reason to think that they never imagined near half a century would have passed, after their articles were established, without a greater advance being made towards it than has hitherto been attempted—an evil which I have often lamented, and should rejoice to see remedied, because, without it, an incorporating union must be very defective. I am glad that a person of your Lordship's abilities and acknowledged skill, not only in the laws of Scotland, but also in the history and origin of those laws, has turned his thoughts to so interesting a subject; and from the specimen, which you have been so good as to communicate to me, conceive great hopes of the progress. Might it not be right to begin with the law relating to crimes which concern the public policy and government of the United Kingdom, without which the two parts of the island can hardly be said to be under one government? If to this were added the establishing of a *comitas jurisdictionum*, or the giving mutual faith and credence to the judgments and decrees of the sovereign courts in each country, as *res judicatae*, it would be a good step; and, as to your land-rights, I should be for beginning with abolishing the strict tailzies, at least *in futuro*; which not only differ from the genius of the English law, that abhors perpetuities, but are manifestly prejudicial to the national interest of Scotland, which is now rising in trade and will, I hope, greatly increase in it. The taking so much of the lands *extra commercium*, is inconsistent with a commercial country. Upon the two last points I have frequently had the honour to discourse

with the Duke of Argyll¹, and have found his Grace possessed with large and just notions upon these subjects.

When I return to London I will obey your commands, by putting your papers into my son Charles's hands, who is extremely obliged and flattered by the honourable mention which your Lordship is pleased to make of him²....

[On October 21, 1759 [H. 101, ff. 189, 194; *Memoirs of Lord Kames*, i. 314], Lord Hardwicke writes in answer to Lord Kames's communication of his scheme for restricting entails in Scotland of August 29, expressing his approval, but at the same time declaring the impossibility at that time of himself undertaking to carry it through Parliament³.]

¹ Archibald, third Duke (d. 1761). The editor of Lord Kames's *Life* adds the following extract from a letter of Lord Mansfield dated September 16, 1773, "Archibald, Duke of Argyll, Lord Hardwicke and I had a serious deliberation on the subject of Scotch entails. ... We agreed that an abolition of entails ought not to be forced upon the country, contrary to their own inclinations; but to make the yoke gall the more, that no relief should be given by Parliament to make them easier. I insisted for an exception as to a general bill to give a power of leasing, as a matter of infinite consequence to the whole community...", i. 297 n.

² "The hints conveyed in the foregoing letter," writes the editor of Lord Kames's *Life*, "were not thrown out in vain" and, "animated by the approbation of that great Judge, Lord Kames [published in 1758] his *Historical Law-Tracts*."

³ See also chap. xxvi. H. to K. July 12, 1751 and June 30, 1759.

CHAPTER XVIII

THE PEACE OF AIX-LA-CHAPELLE

MEANWHILE, in the Netherlands, the French, owing largely to the withdrawal of the forces recalled to suppress the Rebellion in Scotland, had been uniformly successful; and town after town, including Brussels, Antwerp and Namur, had fallen into their hands. The naval expedition, dispatched under General St Clair and the ever unfortunate Admiral Lestock, against Lorient in Brittany, effected nothing¹. On September 21, 1746, Madras surrendered to the French, and the course of the war would have been even more disastrous, had not good fortune in other parts of the world redressed the balance.

Cape Breton had been captured in June 1745. On May 3, 1747, Admiral Anson gained a great victory over the French fleet off Finisterre, capturing six ships of the line, some frigates and part of the convoy. "It is a very big event," wrote Walpole, "and by far one of the most considerable that has happened during this war. By it he has defeated two expeditions at once; for the fleet that he has demolished was to have split, part for the recovery of Cape Breton, part for the East Indies²." The same year, on October 25, 1747, Hawke captured six French battleships in an engagement off Belleisle. A large number of prizes had also been taken and French trade had been almost annihilated.

The campaign in Italy in 1746 had been entirely unfavourable to the French. Philip V, the King of Spain, having died in July 1746, the new sovereign, Ferdinand VI, withdrew his troops from Italy and sent General Wall to renew good relations with the English Court. Francis, duke of Tuscany, the husband of Maria Theresa, had been chosen emperor on the death of Charles VII;

¹ p. 637; J. H. Burton, *Life of David Hume*, i. 208 sqq.; *Gent. Mag.* xvi. 601.

² *Letters* (1903), ii. 275; H. 61, f. 25, Anson's letter to the D. of N.; also p. 639.

and peace had been concluded between the new Elector of Bavaria and Austria.

The negotiations with Russia, and the money expended there, had at last borne fruit. A convention was concluded in 1747, by which England paid £100,000 a year, and an army of 30,000 men began to march from Lübeck towards the scene of hostilities.

More important than all these advantages was the alliance with the King of Prussia, to which the Chancellor attached the greatest value¹. This was secured by the English Ministers, in spite of the King's opposition, on August 26, 1745, by the Convention of Hanover, after Frederick's victory at Hohenfriedberg, on June 5th, over the Austrians and Saxons; and was followed, after the capture of Dresden by Prussia, by the Peace of Dresden on December 25, between Frederick and Maria Theresa, whereby France was deprived of much of her strength in Europe².

At home, the government had the whole nation behind them. All factious opposition was silenced for the moment and the estrangement between King and people had disappeared. "I have nothing so much at heart," the Chancellor made the King say, on dissolving the Parliament in June 1747, "as the preservation of the civil and religious rights of my people and the maintenance of the true greatness and prosperity of this nation. From these principles I will never deviate, and in these principles every true Briton will concur. Let this appear by your conduct in the present conjuncture, and let no false arts or misrepresentations take place to interrupt or weaken that confidence and harmony between me and my people³." The new elections returned a large majority for the government, and the Parliament responded zealously to this appeal and voted large sums for the war.

The Duke of Cumberland who, accompanied by Col. Joseph Yorke, had returned to Flanders early in December 1746, was now supported more actively by the Dutch, who, on the invasion of their territory by the French with 20,000 men, proclaimed Prince William of Orange-Nassau, the King's son-in-law, Stadholder, with all the official and military powers of King William III; and undertook to provide, with England, 40,000 men and to pay two-thirds of their cost⁴.

The allied army accordingly, with the Dutch, British, Hanoverian

¹ pp. 650, 653, 659.

² pp. 634 sqq.; II. 3, f. 78 and II. 60, ff. 181-195 and II. 48, f. 325.

³ *Parl. Hist.* xiv. 65. See vol. ii. 79.

⁴ pp. 639 sqq.

and Austrian contingents, amounted to at least 112,000 men. But the hopeful prospect, which at last rewarded the courageous and indefatigable efforts of the British ministers, was almost immediately overclouded by the renewal of the jealousies and quarrels between the generals, Count Batthyani, Prince Waldeck, the Prince of Orange and the Duke of Cumberland, which doomed once more the whole army to inaction. The allies failed to bring up their quotas and the Austrians, in particular, spent the British subsidies on their campaign in Italy. Disaster, inevitable in such circumstances, was not long in coming. After various futile movements, the allied army was defeated at Lauffeld on ^{June 25}_{July 2}, 1747, in consequence chiefly of the inaction of the Dutch and Austrians¹. The loss of 6000 in casualties and 2000 in prisoners, which included Sir John Ligonier, whom the army could ill spare, was nearly equalled, however, by the enemy; but this disaster was followed on September 3, 1747, by the surprise and capture of Bergen-op-Zoom, a fortress of immense strength, the masterpiece of Cohorn, together with its garrison of 10,000 men, which left Holland completely at the mercy of the French². To add to these crushing calamities, an Indian expedition against Pondicherry, under Admiral Boscawen, failed completely, with the loss of over a thousand lives.

It was in these circumstances that both France and England began to negotiate seriously for a peace, a task which dissensions in the cabinet rendered all the more difficult to the English ministers. Certain proposals in 1746, emanating from the French minister D'Argenson, which included the neutrality of the Netherlands, the retention by France of Dunkirk in its actual state of fortification, the appropriation of Tuscany for Don Philip, and the exclusion of Austria from the preliminary negotiations were supported by Henry Pelham, who "had never any opinion of the success of the war," writes the second Lord Hardwicke, "and was always preaching up peace³," and by Lord Chesterfield and Lord Harrington, but had been strongly opposed by the Duke of Newcastle and the Chancellor, on the ground that a neutrality of the Netherlands would separate Austria from the maritime powers and would strengthen France on that side, where she was most exposed to attack. They objected also to the fortifications at Dunkirk, to the satisfaction of Don Philip's claims by confiscating the domain of the Emperor and to

¹ pp. 640 sqq.; Walpole's *Letters*, ii. 285.

² pp. 651 sqq.; F. H. Skrine's *Fontenoy*, 335.

³ H. 75, f. 22, H. 61, f. 248; Add. 35,337, f. 114.

negotiations without the knowledge of Vienna. Their representations at last prevailed¹. Lord Sandwich was sent to Holland to continue the negotiations on another basis and under the Duke of Newcastle's instructions. Lord Harrington resigned, being appointed Lord Lieutenant of Ireland, and was succeeded by Lord Chesterfield².

In July 1747 communications were once more re-opened with France; and Sir John Ligonier, who had been taken prisoner at Lauffeld, was sent by the French Court to assure the King of Louis XV's desire for peace and to propose negotiations through the Duke of Cumberland. This new attempt to end the war was strongly supported by the Chancellor on the ground of the hopelessness of effecting anything further in the circumstances, by military operations in the Netherlands. The English Ministers had done all that was possible to make the campaign a success; but their plans had been ruined, and would continue to be ruined, by the incapacity and divisions of the generals and the weakness and instability of the allies³. The Chancellor now inclined more to the side of Henry Pelham, though without sharing the latter's incurable pessimism, than to that of the Duke of Newcastle, who, while also working for a peace and notwithstanding the King's Hanoverian policy, was more sanguine on the subject of the land operations and upheld the continuance of the war till better terms could be secured. He was supported by the King and the Duke of Cumberland in his defence of Austrian interests, and his views remained in the ascendant for some time.

In consequence Lord Chesterfield, who had vainly attempted to increase his own power in the government through Lady Yarmouth, resigned office on February 6, 1748, in spite of the Chancellor's persuasions and reasonings to induce him to remain, complaining of the Duke's jealousy, of being reduced to act as his "commis," and of having to approve of "a ruinous and mad war which must end in a bad peace"⁴. Lord Chesterfield's conduct was probably the result in great part of personal pique, and showed a remarkable lack of political wisdom and firmness at this crisis. His foreign policy appears to have been nothing more than peace at any price, an immediate termination of the war at any cost or at any sacrifice, a

¹ pp. 636 sqq.; Coxe's *Pelham*, i. 323 sqq.

² p. 637; *Bedford Corresp.* i. 171; *Marchmont papers*, i. 181 sqq.

³ N. 27, ff. 233-237; N. 28, f. 100; H. 61, ff. 32-6, 121.

⁴ H. 61, f. 106; *Marchmont Papers*, i. 262, 274.

yielding up of the struggle without any regard to future consequences¹; and in his views can be detected that fatal and characteristic mark of degenerate statesmanship, rare in the annals of this time but unhappily only too common in our own, which consists in the attempt to belittle and disparage great objects of national policy in order to disguise and excuse a disgraceful surrender, which weakness and pusillanimity have already resolved upon. "Cape Breton," he told Lord Marchmont, "had now sunk in everyone's opinion and was thought useless, even to the French; for they now fished with us, there being more fish than we had hands to take...?" He was replaced by the Duke of Bedford, while Lord Sandwich became First Lord of the Admiralty.

Meanwhile the whole of the negotiations and the ministry itself were endangered by the violent personal animosities which, arising from these political differences, now broke out between the Pelham brothers. They could no longer meet, according to Lord Chesterfield, "being apt to fall into a passion when they conversed together²," and it was only by the Chancellor's influence that an open breach was avoided. By his tact and patience, constantly exercised, the angry feelings between the two brothers were moderated and their contrary views, with regard to the conclusion of hostilities, brought gradually to converge towards a peace, and to one in which British interests were not unduly sacrificed³.

The following is a note of a conversation between Lord Hardwicke and his sons on the events of this time⁴.

"February 14th, [1748]. Lord Chancellor talked near two hours to Charles Yorke, and me [Philip Yorke] upon

- " 1. Differences between Duke of Newcastle and Mr Pelham.
- " 2. Resignation of Lord Chesterfield.
- " 3. Making of his Grace of Bedford Secretary.
- " 4. Peace and war.

" 1. The elder of the brothers is quickest in his temper, but the other retains longer; frequent uneasinesses in Cabinet; disagreeable to their friends and everybody else; had carried the bucket between them for many years, almost at the end of his line. Sir R. Walpole had the art early to detach Mr Pelham from his brother; told the

¹ The Chancellor certainly had no sympathy whatever with these views, and there is no truth in Lord Chesterfield's assertion to Lord Marchmont "that the Chancellor, though in opinion with Mr Pelham and Lord Chesterfield, yet would not give up his power over the Duke of Newcastle for the remaining power; but in order to govern the Duke in everything else, he went along with him in the main point, whereby he likewise secured many preferments into his own family." (*Marchmont Papers*, i. 222.)

² *Marchmont Papers*, i. 198, 213.

³ *Ib. 223.*

⁴ p. 637 and vol. ii. 39 sqq.

⁵ Add. 35,337, f. 112.

former he should be his successor. They had both owned their faults to him [the Chancellor]. He always said they could not stand without one another; they always talked of going out together; convinced it would be the ruin of the Whigs. Horace Walpole [the elder] had been a bad instrument, amongst others, in blowing the coals between them.

"2. Lord Chesterfield came in upon the Duke of N's naming him to the King without the knowledge of anybody else, which Mr Pelham took ill. Lord Chesterfield said he would act with the Ministers, that the die of war was cast¹; fell into private conferences with Lady Yarmouth, never told what passed between them to the D. of N. He in return never shewed his private correspondence with Lord Sandwich. [Lord Chesterfield] never avowed an opinion in the closet contrary to the King's; would never mention Prussia; would never propose a plan of peace, tho' for one on any terms, would not go to Holland in 1746 to talk over D'Argenson's plan with the Dutch Ministers; never explicit in his opinion, writ superficially to Lord Sandwich, would only write just what he was bid; told a foreign minister he had *beaucoup à faire, peu à dire*; again that he was the 3rd commis in England; has declared, however, he would not submit any more to the slavery of an opposition. My Lord of opinion that a love of quiet, and an unwillingness to sign the very Peace he was for in Council was a principal motive to his going out; is sorry for it, because it would give a colour to the D. of N's enemies to suggest that he was incompatible with any body; had told the Duke of it, wished he would endeavour to prevent it.

"3. As to the new Secretary, has no partiality to Lord Sandwich²; knows his faults, and envy of those, whose junior he was in opposition, has stopped his promotion. Pitt and Lyttelton against it; they told H. Walpole [the elder] he ought to be Secretary, an extraordinary piece of flattery from them. Fox would have been glad of it³; has a very bad opinion of him and the rest of the H[erve]Jy clan; will keep on fair terms with them; is very clear Mr Pelham would not have liked a Secretary in the H. of Commons to have divided the power with him. Duke of Bedford, tho' a great friend to Sandwich, is willing to take it when offered him; the world will stare at it, an unwieldy machine; he has parts, but no temper, proud of his quality and estate; chief argument in his favour is his dignity and weight from his property.

"4. Peace and War. Thinks great injustice has been done to D. of N. in supposing him determined for war; at any rate advised Mr Pelham at the beginning of the session, not to talk too despondingly in the H. of Commons, whatever opinion he might avow in

¹ p. 637.

² John Montagu, fourth earl of Sandwich (1718-1792), plenipotentiary at Aix-la-Chapelle, and this year made First Lord of the Admiralty; noted for his dissolute life, of whom hereafter.

³ Coxe's *Lord Walpole*, ii. 287.

Council; that it would proclaim our weakness to all Europe; this advice has in part been neglected by him; others, as Horace Walpole, Pitt, &c., have carried it further; this language, from them has prevented declarations from the country gentlemen in favour of peace. Tories and P. of Wales's party lie by and wait for opportunities to blame. There has been difference of opinion and the question a nice one; propositions from the French thro' the hands of Ligonier after the Battle of Lauffeld, that the King of France and Duke of Cumberland should make peace at the head of the armies, and leave the shaping it into form to ministers. Against this, not to expose the Duke. He and Ligonier not used to the finesse of negotiation; the French King had his Council about him; the world would say that the administration have exposed the Duke in order to screen themselves. 2. Establishment for Don Philip; Parma and Placentia, thrown out; Lord Chesterfield told the D. of N. it would be giving Don Philip about as good an estate as his Grace's. 3. Furnes or Dunkirk fortified; the former commands the waters of Dunkirk and Ostend; Dunkirk, if only fortified to the land, perhaps not mischievous; if harbour opened, dangerous to England; whoever would make such a peace, must do it for themselves; the Great Seal shall not be put to it whilst in my hands. 4. Restitution of Cape Breton. Everybody now seems convinced that it must be done; glad we have such a pledge. Mr Pelham not inclined to give up the Port of Dunkirk, others less scrupulous; has seen the private correspondence between the D. of N. and Lord Sandwich¹, so has Mr Pelham; nothing but conducive to peace, enquiries about quotas and strength, pressing Lord S. to be particular, not to be too sanguine, giving him the proper lights into what was doing here. Agrees in general as much as possible must be done towards procuring peace this campaign, whilst we have some chances of our side; is particularly concerned for the D. of N., his friend from the beginning of life; thinks nothing wrong or bad intentional in his conduct; insinuations to his prejudice unjust; will defend him, whilst he knows his conduct to be right, both in and out of Parliament. If we break to pieces, shall advise the King to send for Lord Granville: tho' a wild man, he has parts, and a ministry cannot be formed without him."

In January 1748 a new Convention was agreed to for the renewal of the subsidies and the assembling of a new army in the Netherlands, and in February the Duke of Cumberland set off once more to take the command. The Dutch, however, failed entirely to fulfil their obligations; and the election of the Prince of Orange to the Stadholderate had by no means been attended with the good consequences expected. Maestricht, the last fortress of importance still untaken by the French, was tottering to its fall, which the allies, confronting with their divided, dwindled and

¹ Complained of by Lord Harrington and Lord Chesterfield.

disorganised forces a French army of 125,000 men, were powerless to prevent¹; and the hopelessness of still further supporting the continental war and the need of peace were now universally recognized².

On April 30, 1748, accordingly, a preliminary convention, which included the suspension of hostilities in the Netherlands, was signed by Great Britain, France and Holland, but was rejected by Austria and Sardinia, the former making a public protest, but signing, however, on May 25. Meanwhile, on May 13, the King had set off for Hanover, in spite of the Chancellor's remonstrances; and the Duke of Newcastle, rather than yield to another the control of foreign policy and the chief influence over the King's actions, braved all the perils of the deep and all the horrors of damp beds, and followed in June³. Hanoverian points and interests, as the ministers had feared, were immediately raised by the King. An unwise attempt was made to appropriate permanently the bishopric of Osnaburg to Hanover in favour of the Duke of Cumberland⁴, the King, contrary to the wish of the Duke of Newcastle, making independent electoral appeals to the Powers and even to France, thereby giving the enemy a further advantage in the general negotiations⁵. Hanoverian jealousies appear also to have hindered the alliance now proposed between Prussia and the maritime powers, which was strongly supported by the Chancellor and Henry Pelham as a measure to be encouraged now, and to be taken up more definitely on the conclusion of the peace⁶. Opinions, moreover, were at variance concerning the policy to be observed towards Austria. The Duke of Newcastle and the King desired to conciliate

¹ The total military forces of France at this date were returned as 450,053 combatants and 24,143 officers. H. 545, f. 148.

² pp. 653 sqq.; Coxe's *Pelham*, i. 396, 406. The D. of N. writing on August 8, 1747, N.S. to Count Wm. Bentinck, had pointed out that the confederate army, which, by the convention of January, was to consist of 135,000 men, by the last return was not above 57,000, exclusive of troops employed in Zealand and at Bergen-op-Zoom, though the King had actually furnished 2000 or 3000 men above his quota of 40,000; therefore peace was imperative (*Wm. Bentinck v. Rhoon*, by A. J. D'Ailly, 132). Cf. Bentinck's account to the Prince of Orange of a visit to the Chancellor (*ib.* 172).

³ p. 655. "There are a thousand wagers laid against his going: he has hired a transport, for the yacht is not big enough to convey all the tables and chairs and conveniences that he trails along with him." Walpole, *Letters*, ii. 315.

⁴ By the Peace of Westphalia the bishopric was filled alternately by a Roman Catholic, and a Protestant of the Brunswick family.

⁵ p. 658 sqq.

⁶ *Ib.* "The King," wrote H. Pelham, "had rather take any peace from France than court Prussia to carry on the war." Coxe's *Pelham*, i. 371, 436 sqq.

the Empress, even at the risk of protracting the negotiations; while Henry Pelham and the Chancellor, in view of the total collapse of Holland and the failure of Austria to fulfil her engagements, urged the extreme necessity of making the best use of the present opportunity and of concluding the treaty with, or without, Vienna. The Chancellor, however, on one point differed from H. Pelham, whose thoughts were entirely concentrated upon the peace, disapproving of the withdrawal of the troops from Flanders while the Netherlands remained in the hands of the French¹: and in August a serious dispute on this matter arose between the Duke of Newcastle and Lord Sandwich, the latter desiring to conclude immediately without Austria and without the restoration of the Netherlands to that power, a step which, in the Duke's opinion, would sacrifice the chief object in the negotiations².

At length the treaty, largely by the action of Austria herself, who, totally estranged by this time from England, owing to this country's negotiations and alliance with Prussia, made a separate compact with France in September, and withdrew 30,000 of her troops from the Netherlands without giving any notice to the Duke of Cumberland³, was completed at Aix-la-Chapelle on October 18, 1748. All conquests on both sides, made in the war, were given up, Madras being ransomed by the cession of the new conquest of Cape Breton. The Netherlands were evacuated by the French and Dunkirk left unfortified on the sea side, while the assiento was confirmed for 4 years by Spain, and the young Pretender was forced to quit France⁴. A clause, which stipulated the sending by England of two peers to France as hostages for the restoration of Cape Breton, was strongly objected to by the Chancellor, as derogatory to the national dignity and, in the case of Lords of Parliament, illegal; and the qualification in the Treaty was accordingly altered to "two persons of rank"⁵.

These were, in appearance, the negative results obtained after years of bloodshed and expenditure of resources. The conditions, however, were such as Great Britain, considering the extraordinary obstacles which had sprung up, the total failure of military operations in the Netherlands, the perplexed course of the negotiations and the disunion amongst the ministers, was fortunate to obtain, and

¹ *Bedford Correspondence*, i. 540-3, 550.

² pp. 663 sqq.

³ H. 6, ff. 377, 381.

⁴ Coxe's *Pelham*, ii. 40.

⁵ pp. 674 sqq. See the Treaty published by authority (1749).

which were only secured owing to the existence of still greater internal dissensions and confusion within the enemy's ranks¹.

Great Britain, moreover, emerged from the war in a better condition for the early renewal of the great struggle than France, who had sacrificed her trade and navy, lost 100,000 men and gained nothing but an enormous debt.

CORRESPONDENCE

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 179.]

CLAREMONT, August 11th, 1745.

MY DEAR LORD,...

I am persuaded your Lordship will be confirmed in your opinion that the treaty with Prussia² must be concluded at all events. The equivocal conduct of the Court of Saxony was to leave us, when either their fears or their interests may, in their opinion, make it advisable for them; and the selfish views of the Court of Vienna, in sacrificing their allies to their own mistaken views and ambition, prove beyond contradiction the insufficiency and danger of any other measure. In these circumstances, I must own, I could not but be very uneasy when I plainly perceived in my brother the other day rather a dissatisfaction than otherwise at the near prospect of the conclusion of this affair, which I then, and do still attribute, first, to an apprehension that we shall feel the resentment of the King for having forced him to this disagreeable measure³; secondly, that a peace at any rate will not be so likely to be the universal sense of everybody after this treaty with Prussia is made; and to show your Lordship that I was not mistaken in this conjecture, Mr Stone writes me word that my brother has since told him, "that his difference of opinion that morning with me arose from his not having so much hope of the success of the Prussian negotiation as I had, and that he cannot believe things are really so well (or will continue so) in a particular place [the King], as they are represented to be in Lord Harrington's private letter to me; that all appearances of that kind are owing to present apprehensions which will wear off with the apprehensions that caused them, that there is no possibility of going on etc." If your Lordship will compare this with what passed on Friday morning, and with my declaration at your house on Thursday night, "that except this affair with Prussia was brought about, I thought we could not, and ought not to, go on," and if you remember the

¹ p. 654.

² The Convention of Hanover concluded August 26, 1745.

³ The King's jealousy of Frederick always made him disinclined to alliances with Prussia and in favour of the continuance of the support given to Austria.

reception given then to the notion of going out upon that foot, you will not, I daresay, differ with me in opinion as to the judgment I made upon what passed. I am myself so thoroughly convinced in my conscience that the fear of offending in Hanoverian considerations is the sole cause of all our misfortunes, and that my brother (as honest a man as ever was born) has sucked in that poison from the late Governor*, of whom for some years, in my opinion, he learnt nothing that either tended to his honour or his interest. This persuasion makes me, whenever I see anything of this kind, warmer than I should be, and what I am afraid your Lordship and my friends may blame; but it proceeds from a good cause and therefore should be excused. I could not avoid saying so much to your Lordship in my own justification....

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 188.]

CLAREMONT, September 15th, 1745.

MY DEAR LORD,

I am just come from my Lord Harrington, who had yesterday such a conference with the King, as makes it absolutely necessary for us to meet tomorrow evening; so I hope your Lordship will have the goodness to be at Lord Harrington's house tomorrow evening before eight o'clock. Lord Harrington, after he had done his business and procured orders for sending the first embarkation of Dutch etc. immediately for Scotland, which was done with difficulty, the sending an express to the Duke, he says, was not to be attempted, the King wanting to countermand five regiments as proposed by the Pensionary¹. After this, Lord Harrington took notice to the King of what he [the King] had declared the day before as to the Prussian treaty, and his not having anything to do in it, in which his Majesty still persisted and talked in the same manner as before. Lord H. replied that he had signed the Treaty, obliging himself to it, and that before he did it he had promised Lord H. to support it. All this signified nothing. The King at last said—"If the Queen of Hungary would, she could not now consent to it²; it was impossible in her. For she was engaged both to the Elector of Saxony and the Elector of Bavaria not to do it,"—and this I am afraid his Majesty knew before he signed the treaty. What a scene is here opening of weakness, irresolution and —. Upon that Lord Harrington told him plainly that they would not remain in the administration, if this measure with Prussia was not followed and supported; that they thought it destruction to their country, and *he*, Lord Harrington, entirely agreed with them in opinion; that therefore his Majesty must alter his administration or his resolution. The King persisted but

* Sir Robert Walpole in all probability. II.

¹ Gillis, the Grand Pensionary of Holland. See p. 418.

² *I.e.* to a treaty with the King of Prussia.

said, "They know the altering the administration is impossible,"—or to that effect. Lord H. insisted it must be; and my brother, he and I, all agree the thing is now brought to a point and must be decided. We can't, we won't go back. The King will not, or if he seems to do so, will not in reality; so we must go out, and it will be the most honourable and the happiest day for us that has passed a great while. Lord Gower and the Duke of Bedford are to be at our meeting tomorrow: I beg you would not fail. Without you I can do nothing, I will do nothing....

[On May 21, 1746 (H. 60, f. 224; N. 22, f. 222), the Duke of Newcastle writes to the Chancellor on the proposals for peace, opposed by himself and the Chancellor, but supported by Lord Harrington. The latter endeavoured to persuade the King that the Dutch would, in case of their rejection, make a separate peace and the French attack Hanover. These alarms, however, made no impression upon the King, who supported the policy of the Duke and Chancellor. The Duke continues] Lord Harrington has all along supposed (and to the King) that your Lordship would not set the Great Seal to preliminaries agreed upon the foot of his opinion: (and indeed, though he often ask'd me, I could not say that I thought you would; tho' I told him, with great truth, that I had not heard you say a word about it)....

[The Chancellor replies on May 22, 1746 (N. 22, f. 218).] I really think from your Grace's relation that he [the King] has shewn a great deal of temper and judgment, especially in not suffering himself to be amused and alarmed about Hanover....I own the more I have reflected upon the opinion I have given, the more I am sincerely confirm'd in it....I know no warrant any person has to suggest to what kind of preliminaries I would set the Great Seal. That must greatly depend on the circumstances existing at that time; but one thing I will venture to advance, that nothing can be a better defence for ratifying preliminaries, *not in themselves eligible*, than the having used all possible endeavours to procure *better*; and, if we had concluded upon this counter-project, I fear it would not have appeared that we had used any at all.

[He writes further on the subject, N. 22, f. 460.]

[On September 11, 1746 (N. 23, f. 263), he writes to the Duke of Newcastle on the subject of the expedition to Lorient, which left Plymouth on September 14, under Gen. St Clair and Admiral Lestock.] I am not at all sanguine about it, especially when I observe the utter ignorance and darkness under which our admiral and general both profess to write about it. It is surprizing that our sea-officers in general should know so little with any correctness of the

coast of France, that *what Mr Hume once upon a time told somebody* should be made the ground of their decision; especially since it is known that the French have been sounding and surveying our coasts for several years....

[He writes again to the Duke on September 19, 1746 (N. 23, f. 330), making several objections to the paper sent to him by the latter, and advising against the breaking off of the negotiations for peace¹.]

...Don't be angry with me....I had not time last night to tell your Grace what pass'd between me and your brother; but it turn'd chiefly upon the necessity to rectify and prevent the personal alterations that do so unfortunately arise, which I much labour'd, and he talked with great calmness and in as cordial and affectionate a manner with regard to yourself as possible.

Duke of Newcastle to the Lord Chancellor

[H. 60, f. 280.]

NEWCASTLE HOUSE, October 28th, 1746. Tuesday, just come
back from Kensington.

MY DEAR LORD,

The great events of this morning cannot surprize you more than they did me. Lord Chesterfield made me a visit about eleven o'clock. I gave him, in the presence of Stone, an account of everything, our dispute with the Dutch and the situation of Lord Harrington, who, I thought, could not continue long, tho' I wrote the enclosed note to the King to stop everything for the present. I told Chesterfield he was the natural successor, were it not for three reasons; first, the King; secondly, himself; thirdly, which was the greatest difficulty of all, our difference in opinion about foreign affairs. He said he would speak very plainly to me, that of all things, he did not desire to be Secretary of State; that as to the difference of opinion in foreign affairs, he had been, and still was, of opinion, that peace should have been made pretty much upon the foot of D'Argenson's project, but that now the die of war was cast and that he thought it should be carried on in the strongest manner, and particularly that we should give [£]900,000 for 30,000 Russians, if we could have them, and upon this foot would accept the Secretary's office. He allowed me to acquaint my brother with this and even the King. This I thought determined him the successor in case of a vacancy, if the King liked it. When I came to Court I saw Lord Harrington, who was just come out from the King. He told me he had quitted. I seemed surprized and asked him whether he had

¹ See further (H. 60, f. 255), "Some thoughts on the paper of observations on the draft of Instructions for the Earl of Sandwich," written by the Chancellor.

altered his letter. He said he never had shewed it, that he told the King things could not go on, that the King agreed with him, that he spoke of my private correspondence and the King owned he had seen all my letters. I went in immediately. The King said: "He has quitted, I am glad of it."—I answered, "Who does Your Majesty think of for successor?"—"I have nobody, whoever you will"—and then of himself, "Chesterfield is the man that naturally occurs, but he differs so far from you as to peace and war, that can't do."—I then told him Lord Chesterfield's discourse, but that I would not recommend him or anybody His Majesty did not like. He seemed pleased, but said: "I know him better than you,"—to which three or four times I replied I would recommend nobody but whom he liked; if he liked Chesterfield, I thought that would give the most strength to his administration. He said—"You shall help me to get rid of him, if I don't like him." I answered—"That is already done."—The moment the King dislikes him, he told me he would make his bow. I never saw the King so gay, so gracious and so well satisfied. I asked if it would be more agreeable if I should have the Northern Province¹; he seemed pleased at that and said "Yes"—so this thing stands. Chesterfield accepts. I should have spoke to you and my brother. I had no notice. I thought you must like this and sure it is right.

Ever yours,

HOLLES NEWCASTLE*.

[On May 5, 1747 (H. 241, f. 226), the Chancellor sends his congratulations to the Princess of Orange on the creation of the Prince of Orange as Stadholder, expressing the] high veneration in which I have, from my infancy, been bred up, for the House of Orange.

*H.R.H. Princess of Orange (Princess Royal)
to the Lord Chancellor*

[H. 1, f. 20.]

HAQUE, May ^{11th}
_{22nd}, 1747.

The knowledge I have of your affection to the King and his family, my good Lord, makes me receive your congratulations with double pleasure, and I heartily wish that the Prince may always answer the expectations now had of him. He takes upon himself

¹ There were two Secretaries of State, one for the Northern and the other for the Southern Province. Lord Harrington had held the former office to which belonged the correspondence with Germany, Austria and the Northern States, and to which was generally attached the chief conduct of foreign business.

* N.B. The King had taken an aversion to Lord Harrington ever since the *short* resignation. [See above, p. 427, and H. 60, f. 276.] He thought that Lord should have been particularly attached to him. The D. of Newcastle's private correspondence with a minister in his colleague's province, and that correspondence turning on the most material points, was quite indefensible, and Lord Harrington, as I have heard

the government of the Republic in so dangerous and critical a time, that nothing but the divine assistance can make him go through with it; and [it] will always be my greatest joy to see this and the English nation drawing the same line, and that alone can make them both happy and prosperous. I am glad you have not forgotten an old friend, and am always,

Your hearty friend,

ANNE.

*Hon. Elizabeth Yorke to Col. the Hon. Joseph Yorke
with the army in Flanders*

[H. 39, f. 30]

Powis' House, May 25th, 1747.

...By this time you have had the pleasure of rejoicing with us at Admiral Anson's success which, for the value of the capture to us, the loss it is in all respects (both in ships, money and men, the prisoners being above 4,000) to the enemy, and the very bad consequences it has prevented in both the Indies (as this French fleet was intended for two expeditions), is certainly the most considerable event that has happened at sea during this war, and the greatest blow that has been given the French marine since the Battle of La Hogue¹. Yet, undenieable as these facts seem, you would be amazed to come among us and hear how the action is abused as trifling—"Why, there are ships taken every day, it is said, and this is nothing more"—and the Commander in it as never having done anything worthy a seaman or an officer. You will guess the quarter from whence these reflections take their rise to be the same with that you hint at about the reports of your want of provisions, especially when I tell you that Mr Anson was very coldly received *there*² (I take it for granted I need not say where) since his return, and only asked, *When he set out from Portsmouth*; and as this was repeated both by *Monsieur and Madame*, it shows it was a concerted behaviour. There has been a long paper too in *The Fool* abusing him most grossly, and you know that paper has been said to be under Lord G[ranville]'s direction whose admiralty quarrelled with Mr Anson after his return from the South Seas. It seems strange that good service should be so poisoned by coming from a disagreeable hand; for I am persuaded I should have rejoiced at this success, tho' it had been obtained by Admiral Vernon; and I cannot help adding that if victory is to excite some people's anger, I doubt I wish you my Father say, attacked the D. of N. strongly on that head at Council. H. [The Duke of Newcastle, however, had an acknowledged predominance in the cabinet, controlled foreign negotiations and always, though the practice was often objected to, kept up a separate and private correspondence with the British agents abroad. See pp. 628, 630, and especially the incident of the *Inconnue*, below, chap. xxviii.]

¹ So described by Anson himself to the Duke of Bedford.

² Apparently by the Prince and Princess of Wales, whose *protégé* was Admiral Vernon. Anson was raised to the Peerage on the occasion. Next year, on April 25, 1748, he married the writer of this letter.

may deserve a great deal in Flanders, even at the hazard of your being only asked when you bring the news, *How long have you been coming from Harwich....*

Col. the Hon. Joseph Yorke to the Lord Chancellor¹

[H. 6, f. 279.] [Battle of Lauffeld.]

CAMP OF HEER, *June 22nd*, *July 3rd*, 1747.

MY LORD,

Bad news travels so fast that I make not the least doubt but the accounts of our disappointment yesterday will have reached you long before this can, and that your uneasinesses and anxieties will be of many kinds. As few officers will have had the convenience of writing so soon as I, I thought it right to be as quick as possible to prevent bad from being thought worse.

When I wrote last, which was on the 29th ult., as I think to Mr Yorke, you might perceive that the enemy and we were approaching one another: accordingly, on the 30th, we marched to our left, towards Lonaken, and the different detach'd corps of Baroniai, Wolfenbuttle and Daun had orders to pass Bilsen and post themselves at the Grande Commanderie beyond it, with a view to bring the whole army to the Heights of Bilsen, which the enemy seemed to have a mind to as well as we, and had the means of disputing it in their hands by Tongres and Tongreberg, which H.R.H. found the enemy did not quit upon our advancing to Bilsen. This look'd as if they meant to sustain that corps with their whole army, which made H.R.H. immediately advance to the detach'd corps at the Commanderie, in order to reconnoitre and, in concert with the Marshal [Batthyani²] and the other Generals, determine what was to be done. At night they held a council of war after having viewed the ground, and it was determined (as far as I could guess by what I saw next day), to take possession of these heights, putting Bilsen upon our right, and extending our left to ³ on the Jaar. H.R.H. remained at the Commanderie all night, and sent orders to the Grand Army, which lay between Ghenc and Lonaken [Lanalken], to march at daybreak, in order to occupy that position on the heights.

On the 1st instant, between four and five in the morning, we began to perceive the enemy's cavalry marching in two columns, stretching towards Herderen, and the irregulars, which flanked their march, beginning to skirmish with our advanced hussars. H.R.H. immediately ordered Sir John Ligonier to advance with the left

¹ Colonel Charles Russell of the Coldstreams styles this letter "well wrote, being a clear, plain and exact account of the whole action." See *Hist. MSS. Comm.*, Mrs Franklin-Russell-Astley, 372. For account of previous operations see H. 6, ff. 271, 275, 277.

² Karl Joseph, Count Batthyani (1697-1772), commander of the Austrian troops in the Netherlands.

³ Left blank in the MS.

wing of cavalry as soon as possible, and to the foot to press their march likewise. The cavalry were up by 9 o'clock, and it was judged by many a proper time to fall upon the head of their columns; but H.R.H. was cautious of engaging an affair of any consequence before the infantry of the army was come up, which gave the enemy time to occupy the most considerable hill in our front, which we designed to have formed on. The Generals agreed then to form the army with the right to Bilsen (having a considerable post in the place for fear the enemy should attempt to get round us,) and the left extending to Wirlé near Maestricht, leaving the last place in our rear for a retreat.

This whole day was spent in forming the army, and it seemed to be the resolution taken to receive the enemy's attack, if they had a mind to bring on a general action. Accordingly, the villages of La Grande Commanderie and Grotte [Gross] Spawe were filled by the corps de reserve and a part of Count Daun's detachment, and the left wing occupied the villages of Vlitingen and a little hamlet on the left of it. In Vlitingen H.R.H. posted the brigade of foot guards. About 4 or 5 in the afternoon the whole army with its artillery was in order. Whilst we were employ'd in forming, the enemy kept constantly skirmishing with the irregulars in the plain between us, and advancing with his cavalry on the side of the hill of Herderen. This he did to mask the march of his infantry, which was under cover of the hill, on the other side towards our left. This evening we cannonaded the enemy pretty smartly, but it grew so late that it was plain they were not disposed to engage a general affair at that time. H.R.H., after having rode several times from left to right and taken all the measures he judged necessary, ordered the Dutch cavalry to be formed in the rear of their own infantry and the right of the Hessian, and then lay in the village Rosemeer, just in the rear of the lines.

At daybreak on the 2nd, H.R.H. was on horseback, and in company with the Marshal and Pr. Waldeck¹, visited the lines, and altered some part of the disposition of the day before, by advancing the front line almost even with the banks of the enclosures of the hamlet of Vlitingen. The enemy, during the night, had brought more squadrons upon the hill of Herderen, and we could perceive they had thrown up some work upon the brow of the hill; but their infantry, which filed off towards our left, were covered by the heights and corps of cavalry, which they kept marching upon their left flank. Several batteries were placed along our front in order to rake the enemy as they should come down the hills.

At seven o'clock we could not perceive that they made any motion towards our front, which made it suspected that they were concealing the motion of their infantry and amusing us with these corps of cavalry, in hopes to cut us off from Maestricht by pouring down a large column of infantry upon our left. H.R.H. had given

¹ Commander of the Dutch troops, d. 1750.

his order, to the irregulars to watch with the utmost attention the enemy's motion towards the Meuse, and was returned to the Commanderie in order to refresh himself and take further measures in case the enemy did not choose to advance upon us, when Sir John Ligonier sent word to H.R.H. that by the motions of the enemy they were preparing to attack the left, and that he had accordingly ordered all to arms. H.R.H. having ordered Marshal Bathyan and Prince Waldeck to lose no time in getting their people quite ready, rode away to the left, where he found the enemy coming into the plain, thro' a valley between two hills, in a vast column of infantry, of about 11 or 12 battalions in front and as many deep, bearing directly at the little hamlet of Vlitingen (where indeed the chief of the action was). Immediately the firing began on both sides, as well of cannon as of small arms. The village was taken and retaken several times; the battalions of the British and Hanoverian infantry charged 3 or 4 times each, but the French but once; for they could never be rallied, and were always supplied with fresh brigades.

At the instant that the enemy made the first general discharge of small arms at the village, which was about 10 o'clock, H.R.H. ordered me to ride directly to the Marshal [Bathyan] to inform him that the left was attacked, that the enemy by his manoeuvre meant certainly to turn his whole effort upon the village of *Val*, (that is the name of the hamlet), and therefore hoped he would not fail to support him immediately. The Marshal ordered away from the right immediately the nine battalions of the left wing that were detached with Daun, and the five that were with the corps de reserve, together with all the cavalry of Count Daun's detachment; those of Daun arrived time enough to go into the hamlet, but the others were further off, and consequently did not come up till late.

Affairs went so well about 12 o'clock that H.R.H. ordered his wing to advance on the enemy, whose infantry gave way so fast that they were forced to put cavalry behind the infantry to drive 'em up. The centre began likewise to advance at the same time under Prince Waldeck, supported by the Dutch cavalry, and H.R.H. repeated his desire to the Marshal of his advancing even with him.

The enemy began now to advance more infantry from the hill, all inclining to the hamlet of *Val*, and part of the cavalry on their right inclined to the centre in order to keep up the foot. At this last effort of the enemy they pressed so hard upon the right of the Hessians and the left of the Dutch, that they began to give way a little, which the Dutch cavalry, instead of remedying, took the alarm at, went to the right about and exposed the whole centre of the army to the enemy's squadrons who enter'd immediately, overthrowing, as they fled, the five battalions that were coming from the right to sustain the hamlet of *Val*. H.R.H., attentive to every part of the action, immediately galloped to the Dutch and tried,

with the assistance of the Dutch Major, General Cannenberg, to make 'em rally, but all in vain. He was surrounded already by a French squadron, which he narrowly escaped from ; and it was time to think of the left, whose right flank, and the right flank of the village they sustained, was now exposed to a front and flank fire. Tho' H.R.H. had desired more foot from the right before, yet this unexpected break so disconcerted all the precautions that could be taken to join 'em, that it was time to think of making good the retreat to Maestricht. However, the cavalry of the left and some squadrons of the Austrians, which had begun to advance upon the enemy before, were already advanced so far as to be on the point of charging the French, which they did, and that with so much success that they overthrew all before 'em, and eager in their pursuit of 'em, fell into an ambuscade of Grassins and other foot, who were in a hollow way, by which they lost a good many men ; but they cut the foot which fired on 'em to pieces, and before their return, broke some fresh squadrons which the enemy sent down upon 'em. It was all in vain, whilst the enemy had cut your army in two. H.R.H. therefore sent word to the Marshal that he should retire to Maestricht and would there wait to assist him, in case he should want it in his retreat ; and then retired his wing slowly, in great order, and brought off all the large cannon with him, tho' they were advanced before the hamlet of Val. The enemy cannonaded us smartly in the retreat ; but did not think fit to attempt anything further, seeing the good order we retired in and knowing how they had already suffered. The left wing arrived under Maestricht about five o'clock, and the Dutch and Imperialist about seven ; the enemy cannonaded the right wing on their retreat, and seemed to have a mind to attack the rear-guard under Prince Wolfenbuttle¹; but at last they went off after exchanging some small shot.

The right wing never advanced further than within 200 yards of the village of Elcht, which they drove the enemy out of.

The enemy's loss must be prodigious ; ours I don't know as yet, but it must be considerable. We have lost a good many officers ; General Ligonier is taken prisoner and Count d'Ysenbourg, a Hessian major general of horse ; Major General Bland² is shot thro' the arm, but it's only a flesh wound and he will do very well. None of H.R.H.'s family are hurt but his German [Austrian] aide-de-camp, Monsr. Zigesac, who was killed just by us with a cannon ball. I thought I should have supped with the French King ; for in returning from the Marshal to the Duke cross the centre, the French hussars surrounded me, and I owed my escape to the fleetness and calmness of my Grey Bucephalus. I once or twice was thinking to give myself up, but at last determined to push for it and rather sup with the Duke ;—that's enough of myself.

¹ Probably Charles, Duke of Brunswick-Wolfenbüttel (1713-1780), who served in the Austrian army.

² p. 471 n.

We crost last night and this morning the Meuse, and are encamped between Heer and Bergh; and I really think may soon look the enemy in the face again anywhere.

We have taken some 6 or 700 prisoners, which is more than they have of ours; above 50 officers, amongst which is a brigadier, 5 or 6 standards and some colours. When I write next particulars may be made clearer¹.

I am very sorry we have no better account to send you, but our men know they have done their duty so well that they are not at all disheartened by it; therefore keep up your spirits and I hope we shall make up this yet.

I beg pardon for the many faults in this long letter, but I have been five days without pulling off my clothes, and four nights out on horseback, so inaccuracies may be pardoned.

My humble duty,...

...

JOSEPH YORKE.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 283.]

CAMP OF HEER, Thursday, June 25th, 1747.
July 6th.

MY LORD,

...When I wrote on the 3rd, I did not care to enlarge upon particulars, because I took it for granted your Lordship might be obliged to shew the letter [to the King] as on former occasions; and besides that, H.R.H. made me shew him the former part of it, before I sent it away. The great fatigue I had undergone, and the hurry the Duke was in to send his letters away, added likewise to the impossibility of enlarging on the subject.

The great misfortune of an allied army is so evident, that it needs no expatiating upon; the different views of the generals of different nations, the over great caution of weakening the corps that more particularly belongs to them, and the absurdity of people, who at the right of an army [*i.e.* the Austrians] will pretend to judge better of the necessities of the left [British, Hanoverians, Hessians] than those on the spot, render the operations of such an army in a day of action very confused and unsatisfactory. As I had the honour to be sent 3 or 4 times to the Marshal during the action of Val on the 2nd, I was able, as far as my judgment would carry me, to discern how easy it would have been to have remedied the confusion in the beginning; but some generals, who accompanied the Marshal, prevented him from doing what he seemed really to be inclined to. H.R.H. (whose genius for the profession and whose

¹ The losses, about 8000 or 9000 appear to have been about equal, but the French made 2000 prisoners. Coxe's *Pelham*, i. 360; F. H. Skrine's *Fontenoy*, 330; in J. W. Fortescue's *Hist. of the British Army*, ii. 162, the loss of the allies is given as about 6000 and the French "infinitely greater," and the engagement is not regarded as a defeat.

uncommon presence of mind in the midst of dangers shew themselves more and more every day) repeated his desire several times to the Marshal that he would take care to support him effectually on the left, tho' he should countermarch his whole second line of infantry towards the centre for that purpose. This desire was not complied with, tho' I was told twice that it should be, if possible. The possibility I was then as clear in as I am at this minute ; and it was evident, from the very first instant of our forming, that the centre was the weak part of our position, as well from the nature of the ground as (I am shocked to say it) from the badness of the troops [Dutch] that composed it.

Since that was the case, and that such a stripling in the profession was able to perceive it, it was certainly a madness to strengthen the right wing so much, where the attack was impracticable, even with the troops from the left, whilst you exposed your army to be cut in two by the weakness of your centre.

I can assure your Lordship, upon the word of a man of truth, that the instant that the centre gave way without the least reason, the victory was as certainly ours as the reverse is now. The troops which composed the left, except the Hessians, behaved with a spirit worthy of the Prince that led 'em ; the behaviour at Fontenoy was nothing to the present instance ; and tho' I am sensible that a check like the present, at a juncture as critical as this, must be attended with several bad consequences, yet I can't help looking forward with a flattering prospect of what we may expect hereafter from such troops. Our loss is not 2,000 killed, tho' many must die of their wounds. The chief of our loss is in the field officers that commanded the battalions, who fall a sacrifice to the cowardice of those who should have saved 'em. Nothing could be more unexpected than the break of the centre ; if I had known no better, I should have sworn it was treachery, so little occasion could I see for giving way. I was then passing in the rear of the Dutch to the Marshal, when Slippenbach's dragoons broke upon me, and carried me with 'em in the torrent several hundred yards, before I could disentangle myself to continue on my way. I owed my escape then to the nimbleness of my horse, as I did in coming back to his coolness, when surrounded by the hussars of the enemy. I praise the Almighty for H.R.H.'s escape and my own, and don't doubt but some favourable opportunity will offer to recover what we have lost.

The enemy has often sung *Te Deum* for success with five times our disadvantage. Their loss at present is immense. I don't speak from hearsay, but from what my own eyes have seen. They themselves compute their wounded at 6,000 men ; we may easily then guess what their killed must be ; it is certain they have lost four lieutenant generals, but we can't yet fish out their names.

We have been busied, since we came here, in taking care of our wounded, and refitting what we lost in tent poles and necessaries, which the men are obliged to throw away on such occasions. We

shall make a motion to-morrow or next day towards Viset, I believe. The enemy seems something surprised at our keeping firm after our retreat, and they have not ventured to make any motion of consequence since. It is now talked as if Mons. de Lowendahl was to move towards Holland, but it is not certain.

I can't say enough of our heroic chief, who chooses rather to bury in oblivion the faults of past hours in hopes they may be retrieved, his judgment shewing him that jealousies kept up only help the enemy and hurt yourselves.

The two points that I foresee will be disputed with us are the security of Luxembourg or the frontier of Holland. You will settle that I hope from above; for in an allied army, for ought I see, we may wrangle it for ever....

Your most obliged,...

JOSEPH YORKE.

My humblest duty to Mama, whose fears on this occasion, I know how to pity. I beg she may rest assured that I tell the naked truth when I say that, in general, we are not much the worse for this, tho' particulars are terrible losers.

Col. the Hon. Joseph Yorke to Col. John Barrington

[*Hist. MSS Comm.*, Mrs Frankland-Russell-Astley, 371.]

CAMP OF RICHELT, *June 30th*, *July 11th*, 1747.

[After relating the fate and fortune of their mutual friends in the battle.] The French success has cost 'em dear; Sir John Ligonier, who came back yesterday, says Marshal Saxe owned to him eight thousand infantry, one thousand horse and one thousand officers, and they have certainly lost many more; they are not at all uppish with their success, nor can I say it has at all dispirited us. The Austrians are horribly vexed to have been out of the two last actions, and I am convinced would be glad of their turns. For our other friends, *entre nous*, I wish 'em out of the line; for the whole miscarriage was owing to their having the centre....His Royal Highness did wonders; I believe, in my conscience, the strength of his own arm saved him from being a prisoner. He was in the middle of a French squadron, and one of the troopers going to lay hold of him, he gave him such a cut with his sword, that if he did not cut his arm off, 'twill not be of much use to him the rest of his life. His family and servants ran to his succour, and brought him off with no other loss than four of his own hussars being wounded. Marshal Saxe was as near being taken by the Scotch Greys; as he says, one of them had his *pat* upon his shoulder, and he was forced to run for it....Believe me, we are as fit, without gasconading, to fight the enemy tomorrow, and the men as willing, as before the action, and I daresay 'twill hardly be long before we try again....

Hon. Elizabeth Yorke to Col. the Hon. J. Yorke

[H. 39, f. 41.]

POWIS HOUSE, June 30th, 1747.

[After congratulations on his safety:] Your account of the battle...is certainly by much the clearest and best account that has been sent, and as such you will easily imagine it has been shewn to one, who would have been glad to have seen every letter that came by the express¹. The King, for you see I mean him, was pleased with yours beyond expression. He thanked papa aloud at the Levee for having sent it to him, and joined us in wondering how it could be possible for you to write such a detailed and exact description just after, or rather in the midst of, such a fatigue of body and hurry of spirits; and in going round the Drawing-room he quoted you to everybody, "Col: Yorke says so or so," etc.; and Princess Amalie told papa, "I am glad Jo supped with my brother, however²." I think people here are in general not vastly alarmed at this event....

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 286.]

POWIS HOUSE, June 30th, 1747.

DEAR JOE,

I cannot begin my letter without first returning my thanks to God, and congratulating you upon the safety and preservation of the Duke and yourself. In my whole life I never felt so much anxiety as I did on Saturday during all the forenoon. Letters came in the night between Friday and Saturday from General Huske and Commodore Mitchel, of which I was informed in the morning; and those brought so general, uncertain an account of a defeat and the retreat of our left wing, without anything being said of the right, as left us under the utmost doubtfulness and alarming apprehensions....After His R.H.'s messenger arrived, your letter came to my hands about four o'clock, and with it another of the 29th N.S. for your brother. This relieved us as to the *personal* part of our anxiety, and as to the *public* alleviated our concern. I own I feel for His R.H. more than I can express, who, so deserving of better fortune, after all his immense labours and imminent dangers, has at last met with this disappointment. I am much obliged to you for your letter, which contains the most detailed, and by far the best and clearest account, that has yet come.

¹ It was afterwards printed (f. 43).

² *I.e.* not with the "French King," as Sir John Ligonier. See above, p. 643.

...The King was taken too with the spirit with which it was writ, and the principle of *Ne cede malis sed contra audentior ito* pleased him....The King and everybody seem satisfied that the Duke could not, consistently with the services in view and any military rules, avoid fighting; and the misfortune appears to me to be owing to the *lâcheté* of the Dutch troops, and the Austrians not coming to your assistance. The latter of these incidents wants to be cleared up. The present appearance has a bad effect here. People are apt to combine it with what happened last year at Rokow¹ (as I think 'tis called), and are difficult to believe that the same thing should, *by mere accident*, happen twice consecutively. Some people are also at a loss to account how the army came to cross the Meuse, and not take some post near Maestricht on the Brabant side, and they are apprehensive that the French may get the command of the Meuse and stop your provisions. I wish you would explain these things in your next, that one may know what to answer to gain-sayers....I am glad you had the good fortune to sup with H.R.H. and not with Marshal Saxe and Sir John, for which reason *Grey* is become a greater favourite than ever². Let me know the particulars of any other incidents that happened to yourself....

HARDWICKE.

I slip in this *feuille volante*, to desire that in your next you would send me an answer to the two following questions :

(1) By what accident, or means, it happened that Marshal Saxe got possession of the principal hill near Herderen, when it seems as if all our horse was up time enough to have gained that height?

(2) What was the distance between the right and left wing, and how it happened that the Austrians were in such a position that (as Sir Everard Fawkener says in his letter) *they could neither be attacked nor make a diversion*?

[On July 6th/17th (H. 6, f. 294) Col. Yorke replies to his father's queries in detail. To the first he answers:] The prudence of falling on the enemy, or risking an action before the infantry came

¹ Battle of Roucourt, in which the allies were defeated and the 50,000 Austrians remained inactive. October 11, 1746.

² His horse, who also carried him at Fontenoy and who fully deserves a footnote in these annals. Writing on October 6, 1760, Col. Yorke thanks his father for the care he has taken of his "old servant Grey," who has now been laid to rest in Wimpole Park. (H. 10, f. 115.)

up, seemed the point in dispute. If I was to give my own opinion, I should say that nothing seemed to me more easy; and it was the greatest surprise to me to find the resolution, which H.R.H. had taken before the Marshal or Prince Waldeck came near him, to occupy that village, countermanded, and the infantry of the corps de reserve, which I was sent to conduct there, stopt short at Klein Spawe. [He concludes that the Duke was overborne by the other generals, and is convinced that it would have raised the spirits of the army, and that the change of plan had much influence on the result of the battle.] I have been told, (indeed it was said then) that Prince Waldeck was against it, and absolutely refused to come into it, which, since he did not propose it himself, is not to be wondered at; for he may justly have applied to him what Shakespeare says of Cicero in Julius Caesar, "that he will never follow anything which other men contrive"; nor has he, ever since the campaign begun, behaved like an honest man of sense, or one that was desirous to promote a harmony and good understanding. I don't say this from suspicion only, but from what I know.

[With regard to the second question, he is clearly of opinion that the Austrians should have sent reinforcements to the left, when it was attacked.] The strong position of the right was certainly an advantage, if the proper use had been made of it by strengthening the left; but otherwise was a terrible disadvantage, as it tempted 'em not to advance for fear of giving it up. The Marshal, whom I saw three times that day, when sent to him by the Duke, told me the second time, that the enemy had such a superiority of ground in his front, if he quitted his position, that he did not think it advisable. [Five of his generals had reconnoitred the ground and said the same.] All these reasons against their advancing were so many strong ones for their vigorously supporting the left who could, and did, advance, and on whose success depended the whole fate of the day....

I can't finish without mentioning one particular...which is, that from the time H.R.H. left the Grande Commanderie on Sir John Ligonier's message, till we all arrived at Maestricht, he never saw the Marshal; and tho' they all allow the right could not be attacked nor advance far, tho' the action was so warm on the left so many hours, and H.R.H. exposed all that time, yet he never came near him, but remained with a great deal of composure at the head of the right wing the whole time. This must strike everybody that knows it....He would certainly by it have been a better judge of our situation, then he could by a distant view, or the reports of aides de camp. I thought I could perceive H.R.H. excessively hurt at it when first they met afterwards when, on mentioning our situation, his eyes swelled with tears, but he has never let fall the least word about it amongst his family¹....Grey thinks himself highly honoured by the notice taken of him, and promises to do his best hereafter.

¹ The Duke was careful not to pass censure on the conduct of the Austrians in order no doubt to avoid further quarrels and jealousies, and still worse calamities. Col. Yorke

Lord Chancellor to the Hon. Philip Yorke

[H. 3, f. 126.]

POWIS HOUSE, August 6th, 1747.

...I return you the enclosed political performance of our friend [Horace Walpole the elder]¹, which I have read over more than once. I agree in several of his notions, but as to his favourite prescription to effect the cure, I can only wish it were possible to be administered². Nobody can be more sensible that the defection of the House of Brandenburg, under this degenerate branch of it, has been one of the chief causes of the bad situation of the common cause of Europe, nor be more convinced that, if he would now enter and take a vigorous, honourable and steady part, the whole might be retrieved. But how to bring that about is the question, and there are so many difficulties in it as reduce it almost to an impossibility. The whole is far from being owing to the cause, which Horace suspects³. Though there is something in that, yet it was got the better of in the Convention of Hanover and the Treaty of Dresden. But the King of Prussia's rooted animosity to the House of Austria, his incurable jealousy and dread of their vengeance, which he knows he has deserved, and his abandoned perfidy and falseness, are not to be got the better of. Besides, it is certain that he is at this instant, stirring up all the mischief he can possibly foment in the north, at the same time that he wants to be a mediator of a general peace. And who can trust such a mediator? As to your question, whether you may give our friend *a hint of what is going on*⁴, I think you may, in a proper, guarded manner, and that the ministry are in a way of thinking to improve all opportunities of that kind. As to Horace's jealousy, that people are afraid to speak on the topic which he

had said in his official account, drawn up by the Duke's order, regarding their inactivity: "The right wing could not, however, advance as fast as the left, because...they would have exposed their flank...however, they kept moving on and prevented the enemy from detaching more troops from their left to their right." (H. 83, f. 163.) But he adds here (H. 6, f. 295), "As to the diversion they were able to make, I am not so clear (tho' the Duke was pleased to compliment my invention when he read that part of my relation, which accounts for their not doing more)."

¹ See p. 162 *n.* and vol. ii. 29.

² An alliance with Frederick of Prussia was a favourite project with the elder Horace Walpole (Coxe's *Lord Walpole*, ii. 180 sqq. and 214 and 248), who valued himself greatly on his political sagacity (which indeed was considerable), and who wrote long letters of advice to the King, the D. of Cumberland, and the D. of Newcastle.

³ The King's jealousy of Prussia.

⁴ Regarding the negotiations with France.

is so fond of, he cannot seriously think that those, who ventured so boldly to push the Convention of Hanover (which was made with the King of Prussia in 1745), would decline this measure, if they could see any practicability in it or have any dependence upon it, even though that, which he supposes to be the only difficulty, were out of the case¹....

Lord Chancellor to Col. the Hon. Joseph Yorke

[H. 6, f. 314.]

POWIS HOUSE, August 21st, 1747.

DEAR JOE,

...We bless God for preserving you from the dangers which must necessarily attend everybody in a situation such as a town so besieged....

I look upon it as an instance of the Duke's regard that he sent my Lord Chesterfield a copy of your letter to him from Bergen-op-Zoom to be laid before the King, with which His Majesty was so good as to express himself highly pleased; and said it was the only sensible detailed account which, till that time, he had seen of the state of the siege and defence². All his servants were of the same opinion....We are most sincerely for peace, if it can be attained on reasonable terms; but if not, for vigorous preparations. Thanks be to God, His Majesty has an excellent Parliament chosen, which may now continue for seven years; and they will support him to the utmost, either for peace or war, as the reason and necessities of state may require. But in order to do that, it must be seen to conviction that everything proper and practical has been done towards a peace³....

For myself, I finished my Chancery business last Saturday, and have been kept here till this late day in the vacation by occupations of various kinds. Everything is fixed for so much of the family, as remains here, to set out for Wimpole to-morrow morning, where

¹ H. Walpole ascribed all the misfortunes of the war to the interested acquiescence of the ministers in the King's Hanoverian partialities with which, as we have seen, they could not be justly charged.

² Col. Yorke had been sent by the D. of Cumberland to Bergen-op-Zoom to report on the state of the siege, and to the Prince of Orange at the Hague. For his accounts see II. 1, f. 10, H. 6, ff. 298, 306, II. 83, ff. 179-197 and further, for accounts of military movements, II. 6, ff. 310 sqq.

³ On September 23, 1747, the Chancellor, in answer to the D. of N., sends a long paper on a scheme for peace, which had been drawn by Lord Chesterfield. N. 28, f. 100; II. 61, f. 121. See also N. 27, ff. 233-7, and II. 61, f. 32-6, and Coxe's *Pelham*, i. 367.

we shall lament the want of your company, which nothing can make any amends for but the hearing often of your health....

Your most affectionate,

HARDWICKE.

[On September 11, 1747, N.S. [H. 6, f. 318] Col. Yorke forwarded to his Father a long letter furnishing explanations of the various military movements, to which the King, after reading it, appended the following note [f. 326] on returning it to the Chancellor.] I thank you, my Lord, for the communication of this letter, which I have read with a great deal of satisfaction.

G. R.

[After replying on September 6, 1747 (N. 28, f. 32), to the Duke of Newcastle on various details in the negotiations for peace, the Chancellor concludes:] What you say¹ of your brother rejoices me beyond expression. The inquietudes *there* have been my greatest grief and vexation. Cultivate and cherish these good motions; and, as I am sure everything is right and sound between you at bottom, all disagreeable appearances will vanish, prodigiously to the satisfaction of your friends, to the solid benefit of the public, and without all doubt, vastly to your own ease. What your Grace relates of the Closet is another subject of great joy to me....

One word more and I have done. Don't send for me this week if you can possibly avoid it²....

H.R.H. The Princess of Orange to the Lord Chancellor

[H. 1, f. 22.] FROM THE HOUSE IN THE WOOD, November ^{7th} _{18th} [1747].

The sincere share, that I know my good Lord Chancellor takes in what regards us, makes me profit of your son's return to England to send you word myself of the happy turn things have taken for us here, the States of Holland having unanimously agreed to make the dignity of Stadholder hereditary in the Prince's family, and even in some degree to the females, and by having taken such a resolution shewn the trust and confidence they have in their present governor. God grant that this establishment may ever be a happiness to this country, and ever unite more and more the Protestant interest and the power of the Maritime Powers. I shall

¹ f. 26.

² He is obliged, however, to return to town (f. 41).

always think myself happy, if I may contribute to these ends, and deserve by those means your esteem, which I set a great value upon, being always with great sincerity your hearty friend. The Prince sends you a great many compliments.

ANNE.

I had almost forgot to thank you for the Trials¹ you was so good to send me, and have read them with great pleasure.

Lord Chancellor to the Duke of Newcastle

[N. 28, f. 615.]

TWICKENHAM PARK, December 29th, 1747.

9 in the morning.

...Is it not...absolutely necessary to hasten the sending of your minister to Berlin *immediately*, and that the States General should send one at the same time; that they should jointly be instructed to tranquillise the King of Prussia on the subject of Silesia, to eradicate his jealousies that the Empress will be permitted, or encourag'd, to take it from him as soon as her peace is made; and to give him all the guarantees he can desire, from both the maritime powers, that she shall not be permitted to do so; which is the more necessary, because Holland has hitherto declin'd coming into any guaranty at all. If anything further can be done, your Grace will be able to suggest it better than anybody. But however disagreeable this may be, yet if there is a power which, as things are now constituted, holds the balance of Europe in its hand, and can turn it on which side it pleases, which is certainly the case of Prussia at present, very disagreeable things must be submitted to for a season in order to overcome that difficulty².

The next thing to be done is seriously to set about fixing your plan of peace, and adjusting such terms as you will really and finally accept in the present circumstances, about which I have already given your Grace a great deal of trouble, but which every incident of this nature makes the more necessary and pressing....

HARDWICKE.

¹ Of the Jacobite Peers.

² Alarmed by the approach of the Russian troops, Frederick made immediate preparations for resuming hostilities in case of attack by Austria. The Chancellor's advice was now taken, Frederick reassured and all ill-effects prevented. Coxe's *Pelham*, i. 377.

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 203.]

HAEGUE, March $\frac{18th}{29th}$, 1748.

I won't tell you all I know, because it will only give you the vapours when you can't remedy it, and it may not be so decent for me to enter into particulars with you at this distance. All I have to add is, that I wish from the bottom of my soul H.R.H. had never undertaken the command this year, which seems big with the fall of the alliance, unless the hand of God interposes in our favour at Aix la Chapelle¹.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 337.]

CAMP OF HELLENROUCK, NEAR ROERMONDE,
April 11th, 1748. N.S.

...H.R.H. is greatly to be pitied, who has the misfortune to head so unconnected an alliance, which thwarts every measure he has proposed, and has thrown him at the head of so inferior an army, to be spectator of the loss of the most important fortress [Maestricht] that remains to us in the Low Countries. Great is the load he has to bear, and stout as he is, it has greatly depressed him; for I attribute that terrible illness, which had like to have deprived us of his inestimable life, in a great degree to the ruinous situation that he found affairs in, without any human probability of their being likely to mend. Thank God, he is much better, and notwithstanding the fatigue he has undergone before he was perfectly recovered, I think he gets strength daily. He will do all he can; but when that is done, a great deal more will be wanted before we can hold our heads above water again....

Col. the Hon. Joseph Yorke to the Hon. Philip Yorke

[H. 15, f. 210.]

CAMP OF NESTELROY, May $\frac{17th}{28th}$, 1748.

...I have often speculated upon the reasons that induced the Court of France to come in so readily, as she has done, to measures of peace, and upon terms, (considering the situation she was in, of extending her conquests still further before we could effectually have withheld her), very advantageous for the whole alliance; and I am firmly persuaded that faction has had a very considerable share in this peace².

¹ For his account of the military situation and particularly the conduct of the Dutch, see H. 6, ff. 331 sqq.

² All the influence of Madame de Pompadour, the French King's mistress, and of a crowd of courtiers, was now exercised in favour of peace and against Marshal Saxe and the war party; and though France was completely victorious in the Netherlands, she was so nowhere else.

Horace Walpole (the elder) to the Hon. Charles Yorke

[H. 285, f. 94.]

COCKPIT, May 24th, 1748.

[After congratulations on the prospects of peace] I would flatter myself with the nation being long happy under the present ministry; but as that depends upon an union among themselves, I think it very doubtful, unless the great man, your Father, will exert his credit and influence to preserve harmony between those, who by the ties of blood and interest naturally ought to be inseparable in their thoughts and actions relating to the public*....

Duke of Newcastle to the Lord Chancellor

[H. 61, f. 165; N. 30, f. 118.]

NEWCASTLE HOUSE, May 26th, 1748.

MY DEAR LORD,

As I am persuaded your Lordship knows the great dependance I have upon your friendship and advice, so you must be sensible, I could never stand more in need of it than I shall during my stay abroad, when I shall have little more than my own opinion to direct me. In order, however, to be as well apprised as possible of your Lordship's general opinion upon the present state of our affairs, I should be infinitely obliged to you, if from your friendship and partiality to me, you would during your retirement next week in the country, put down in writing some few heads of what you may think I should chiefly have in view; first in my conferences with the Prince of Orange and the ministers at the Hague; secondly, in my interview with the Duke at the army; and thirdly, on my arrival at Hanover, and during my stay there....

I am always with the truest gratitude and affection,...

HOLLES NEWCASTLE.

[The Chancellor answers on the 2nd June (N. 30, f. 144); he will be in town on Monday evening and then will be at his Grace's service. He wishes him farewell on June 8 (f. 180). On June 24 (H. 61, f. 169) the Chancellor sends a long letter dealing with details of the projected treaty and again on July 8 (H. 61, f. 191).]

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 345.]

CAMP OF NESTLEROV, June ^{3rd} _{14th}, 1748.

...The King saw the Prince of Orange at Utrecht, and talk'd with him between twenty minutes and half an hour, and I am told

* The weight of our family at this time, both in Church and State, was very considerable. *Nimium vobis Yorkina propago Visa potens, Superi etc. : II.* [Cf. Virgil, *Aeneid*, vi. 870.]

was very civil, tho' I much suspect, from the hints of some Dutch I have seen since, whether the latter was over well pleased. I don't so much wonder at that, because the Prince loves *beaucoup de verbiage*; and if he has any appearance of sense, 'tis in discourse, which makes him the more desirous of long conferences; and I imagine he would have been glad to have enter'd into a detail of vindicating his own measures. His Majesty certainly chose to avoid that, and was certainly in the right; for I should not have been astonished if he had lost his temper in such a conversation¹. The Prince of Hesse² was in the room all the while but stood at a great distance, and the King hardly took any notice of him; that don't much signify. The Princess Royal waited at Maeslandsluys for the King's coming, but he just embraced her and went on. I don't find that he stopped three minutes with her, which she is as likely to remember as any one of her sex. This short interview past in the middle of a great mob, for which that place is as famous as for its loyalty....

JOSEPH YORKE.

I ought to make excuses for the hurry this letter is wrote in, but my hands can witness I have wrote from 6 this morning, and it is now drawing near 7 at night, so that my nerves tremble with so continued a labour.

[Colonel Yorke was now fixed upon by the King to be sent to Paris as British envoy on the conclusion of the Peace. In a long letter of July 5 he had debated the matter and asked for his father's advice and support (H. 6, f. 351; H. 61, f. 179).]

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 355.]

EYNDHOVEN, July $\frac{12^{th}}{23^{rd}}$, 1748.

MY LORD,

...The only reason that prevented my sending your Lordship the particulars of my conversation with his Grace [of Newcastle] was the not having satisfactory materials to furnish out a letter on the subject; and as the affair had never been of my own seeking, I own I was foolishly hurt that as little notice should be taken of it to me, as if I myself had solicited it....The Duke of Newcastle's hurry is too well known to you to need being mentioned. Whilst he was at the army, he lived in one continual round

¹ William V (1711-1751) had married Anne, Princess Royal, eldest daughter of the King, who was on ill terms with her father.

² Frederick William had married Princess Mary, the King's fourth daughter, whom he ill treated. He had held a command in Scotland and Flanders; he turned Roman Catholic in 1754; became landgrave in 1760.

of it¹, and the times that he did speak to me I could neither make head nor tail of what he meant; for tho' he assured me he had spoke to H.R.H. about me more than once, yet he did not give me to understand that there was the least hopes of obtaining the rank for me, nor that the Duke said he would interest himself in it². If anything could be gathered from our conversation, it was rather to damp my hopes; as he told me such things were difficult to get, that the King did not like to be dictated to in his choice, that he (meaning himself) never meddled in military matters, and if he did, he was pre-engaged; however, that he loved you and loved me and loved us all, and would do anything to serve us in any way. Such was the discourse I had with his Grace, and that in a loud whisper, calling to twenty other people at the same time; he would not give me time to speak my thoughts, nor could I ever do it. If your Lordship can make anything out of this medley, which upon my honour is the naked truth, I shall plead guilty to the accusation and beg your forgiveness for such a neglect; but if, as I think it must, this account (which I should never have sent if I had not thought it your order) appears to you, as it did and does still to me, I must hope I shall not lie under your displeasure....

I feel most strongly the objections you start of my youth and the intriguing spirit of the Court of France, but if my friends think it right for me, I will take all the pains I can. I have submitted myself to your Lordship's judgment for my decision, and I hope in a day or two to receive a more comfortable letter than the last; for I confess that, which I am now answering, has rather made me uneasy. I must, to be sure, in some measure judge for myself; but still, in judging for myself, I should always choose to incline to the advice of my real friends, as thinking them wiser than myself....

The only thing that flatters my vanity in this whole affair is the most gracious manner in which His Majesty was pleased to say, he would not let me go out of the army. That single expression has done me more good than anything that has been said to me, since this journey was first mentioned....

JOSEPH YORKE.

[On July 15/26, 1748 (f. 359), he writes word that he has accepted the appointment. He is to accompany the Duke of Cumberland to Hanover to visit the King (f. 368).]

¹ "At a review which the Duke made for him," writes Horace Walpole (*Letters*, ii. 320), "as he passed through the army, he hurried about with his glass to his eye, crying 'Finest troops! finest troops! greatest general!' Then broke through the ranks when he spied any Sussex man, kissed him in all his accoutrements, 'My dear Tom such an one'; chattered of Lewes races; then back to the Duke with 'Finest troops! greatest general!' and in short was a much better show than any review."

² The Chancellor had asked the Duke of N. to procure for him the rank of full colonel. H. 61, f. 191.

Lord Chancellor to the Duke of Newcastle, in Hanover

[N. 30, f. 361.]

POWIS HOUSE, July 15th, 1748.
26th.

MY DEAR LORD,

...I must begin with my thanks for the undeserv'd regard which you are pleas'd to shew my correspondence¹, which, I am sure, did not merit to be communicated in the place [the King] to which it had the honour to be conveyed.

As to the subject of your Grace's private letter to your brother², I need use no words to convince you that it gave me as much concern as it could possibly do you, and for the same reasons. But I will tell you my opinion upon it directly and plainly. I think neither your Grace nor Mr Stone could possibly do better or otherwise than you have done³. The latter could not do otherwise than obey, and it is ridiculous to think he could. Your Grace has consider'd the affair in all possible lights, and taken all imaginable precautions to prevent inconveniences, and in this opinion both the Duke of Bedford and your brother do entirely concur. At the same time, I must own that I fear some disagreeable consequences may arise from the making such a confidence to the French minister. Not that I think the thing will succeed. The treaties of Westphalia stand too obstinately in the way, and they are made part of the basis of the preliminaries. But the French Court has it in its power to make one or other of these advantages. Either to flatter a certain Person by making him believe they will push this point for him, and thereby induce him the more easily to overlook more material things in the definitive treaty, or else to betray the secret to other powers, whom it may offend and irritate. This is part of the King of Prussia's bait; and France may now let him know that his offer has been slighted and rejected, and the same thing has been sought for at their hands. I wish all this to be avoided, and am convinc'd no mortal could have taken wiser means to avoid it than your Grace has done.

The doctrine of hastening to a conclusion is the most orthodox that can be preach'd, and we all rejoice to see so many steps taken

¹ Probably the letter of June 24 on the projected treaty, H. 61, f. 171; N. 30, f. 226.

² Printed in Coxe's *Pelham*, i. 436, the chief topic of which is the King's Osnaburg negotiation.

³ The King had ordered the Duke to write to Lord Sandwich to assist Busch, the Hanoverian agent at Aix, in the affair, which he had done, at the same time directing him particularly not to allow the general negotiations to be retarded by it.

towards it. We all likewise agree that France ought not, on any pretence, to be left in possession of any part of their conquests in the Netherlands. The whole difficulty seems at present to arise from the Court of Vienna, which is abominable, and will in the event provoke this country to a degree which I, who am a friend to the House of Austria, dread....

It has been observed that your Grace repeats over and over *the old system*, and from thence an inference is made that you are averse to Prussia. I will venture to say one word upon that head ; because you know that I am a hearty friend to the old system and an utter enemy to entering into such an intimate union and connexion with France, as should make us dependent upon her, as had, not many years ago, been likely to be the case¹. But notwithstanding that, I see, and we have all felt, the lameness of that old system without Prussia. It has been the great maim and weakness of the whole alliance. In this view, I am quite delighted at your Grace's letter to Sir Thomas Robinson²; and for this reason, in my poor opinion, neither the King nor the Empress should stick at small matters or the modality of things to take him in. If you gain Prussia, the confederacy will be restor'd and made whole, and become a real strength. If you don't, 'twill still continue lame and weak, and much in the power of France. The assistance of Russia cannot repair this defect ; for we see, by sad experience, at what a prodigious expense their succours are to be had ; how uncertain, and at best how very late, in their coming ; insomuch that all may be lost before we can see a man of them. This weighs extremely not to insist upon niceties when the gaining of Prussia (if practicable) is the question ; and methinks, the King of Prussia has gone a considerable way in declaring that, tho' perhaps the friendship between him and the Empress Queen is not quite clear enough to encourage a direct alliance between him and her imperial Majesty, yet he is willing to enter immediately with the maritime Powers, and, by the medium of them, to give all the guarantees and securities for the Austrian dominions. So I understand it ; and I should hope that a little demonstration of good disposition and compliance on the part of the Court of Vienna, might bring him the other part of the way. As to *proceeding immediately* to make any general new confederacy to secure the allies against the

¹ Allusion to Sir R. Walpole's policy and the treaty of Hanover between Gt. Britain, France and Prussia in 1725.

² British representative with Lord Sandwich at Aix-la-Chapelle.

power of France, my fear is lest that should alarm France and make that power, which has much in their hands, reluctant, and dispos'd to create obstructions and take advantages in settling the definitive treaty. But the right measure seems, to my humble apprehension, to be to have, *even now*, such a new alliance always in view; to be entering into secret concerts for it and paving the way to it, that it may be concluded, without loss of time, after the definitive treaty is made....

My dearest lord,

Ever yours,

HARDWICKE.

P.S. Should not all possible means be tried to prevent the Court of France from sending the young Pretender, under their protection, into the Canton of Freibourg? It will cause great jealousy and ill-humour here. Surely, he should be sent back to Rome; for the pretence of his having quarrelled with his father seems to be a mere farce.

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 46.]

GREENWICH, July 25th, 1748.

MY DEAR LORD,

I forward to your Lordship, by the Duke of Bedford's desire, his Grace's letter to me, by which you will see he does not think of being in town till tomorrow in the afternoon, and proposes meeting at your Lordship's house at seven in the evening. I shall not fail to be there by the time appointed. You have also the packet of private letters...and a scolding one which I received by the mail this afternoon¹....As to Col: Yorke, it never entered into my head that what has passed on his subject could be the occasion of any ill-humour [of the Duke of Cumberland²]. The Duke's behaviour to your son, and the thing itself, appears quite otherwise. What Mr Yorke will have to do at Paris I am a total stranger to; but if he goes, your Lordship may be assured of my contributing, the little share I have in these itinerant embassies, all in my power to make him easy. You know your son, but whatever I hear of him from all quarters is greatly to his advantage; and therefore

¹ From his brother, N. 30, f. 474.

² This had been suggested by the D. of N. as the cause of the D. of Cumberland's coldness (H. 61, f. 188). But the quarrel between the D. of Newcastle and Lord Sandwich, who was a friend of H.R.H., was the real reason. The Duke of Cumberland also disagreed with the D. of N. on the advisability of engaging France to hand over the Netherlands to England and Holland, till Austria should have acceded to the treaty. Coxe's *Pelham*, i. 457-8.

I have not the least doubt of his acquitting himself, in whatever he is employed in, with honour and reputation. I think he will have some difficulties, as I suppose St Severin desires a man of confidence in order to renew the late friendship between the two crowns upon the principles of the Cardinal [Fleury], and to be the means of establishing his ministry¹; but your Lordship, I daresay, must perceive, what I think is very clear, that his great patron*, as well as his particular friends†, mean nothing less than that. As to perfecting the peace by a definitive treaty, that will be done at Aix or not at all. I think Col: Yorke likes it, that is, it looks to me as if a foreign minister was the walk he designed to place himself in‡. Whatever he undertakes, as he is your son and a worthy one, I heartily wish him success in. But my own observation is, that it generally proves as ungrateful a soil as a man can plant himself in§. You desired me to speak my mind freely; I have done so; but when I consider that I am writing to one, whose judgment and experience is so greatly above my own, I ought to ask pardon. My brother is certainly in the right to complain of the Duke of Bedford's great neglect of business. Your Lordship knows my thoughts of it, and the liberties I have taken to prevent it for the future. But then I think his Grace [Duke of Newcastle] should stop there. Your Lordship and I have been at the oar a great while, and for my own part, with very little direction of the rudder, a circumstance pretty material when people are called upon to give their opinions *extra officia*. I have not failed his Grace one post or messenger since I returned out of the North; and if you were to see my letters, which I hope some time or other, when you have nothing else to do, to show you, you will say I have not failed in giving sufficient praise where I thought it was due; and in general I have thought so, nor omitted the most friendly and open advice whenever I thought it wanting. His Grace has two or three times talked of the hardship it was to send him over; I don't know who did; every man that knows anything of this Court and will speak truth, must say that whoever thinks to rule in the Closet, must follow the King in these parties abroad. As soon as I found that my brother was determined to do that in as extensive degree as any one that went before him, I knew he must go, and I knew he would go whenever some domestic inconveniences were got over. When I have said this, I heartily rejoice at his success in this undertaking. I know nobody would have gone through it better, either for the public or himself. I only wish, when we have what we desire, we would be contented, and not expect that all the world should enter into our

¹ Comte de St Severin, appointed minister of state this year, formerly French ambassador in Sweden.

* The Duke of C[umberlan]d. H.

† Duke of Newcastle. H.

‡ A true prophecy. H.

§ Mr Pelham means that it is very liable to ups and downs and affords no bottom, or cushion at least. H.

cause with the same cordiality that personal and particular friends do. ... I am, my dear Lord, with great truth, affection and respect,

Your Lordship's most faithful and obedient servant,

H. PELHAM.

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 370.]

EYNDHOVEN, *July 26th*
August 6th, 1748.

...I shall take care to obey your Lordship's commands in any audience I may have of the King. I am of your Lordship's mind, that it is not impossible but he may talk to me on some Hanover point. I have been thoughtful upon that head some time, and should be a little embarrass'd with the particular one¹, which I fancy occasion'd your postscript, because I see all my friends think it is ill-timed. I will, however, do nothing without consulting H.R.H. and the Duke of Newcastle, and shall most faithfully report all that passes. I am fully apprised of everything that has hitherto past on the subject, and see the consequences of it....

Lord Chancellor to the Duke of Newcastle

[N. 30, f. 474; H. 61, f. 197.]

POWIS HOUSE, *July 29th*, 1748.

MY DEAR LORD,

...I fear you think us very dilatory in England; but to that I can say nothing, except that Mr Pelham is always in town, or no farther off than Greenwich, and I have hitherto been, and for some time shall be, always at the oar and in readiness. For the rest, I can only venture to give proper hints, which I have not failed to do.

I cannot begin without assuring your Grace of my most sincere and affectionate concern for the anxiety you have been under of late....My concern was increased by the suggestion that the offence might proceed from your kind interposition for Joe. But I hop'd and believ'd that could not be the case from the open, gracious and kind manner, in which H.R.H. had treated my son on this very subject....As to the mission to France, I observe your Grace says in your private letter to your brother that, when you first proposed it at the head quarters, *the Duke did not seem to like it*. If I had known that sooner, I would have endeavour'd that it should have been no more thought of. It has now transpir'd and begun to be talked of, tho' I have never opened my lips about it. The result

¹ The affair of Osnaburg.

of what I writ to Joe was to submit entirely to H.R.H.'s opinion and pleasure, and he has no other ambition. H.R.H. has a right to dispose of him just as he approves. All I beg is that there may be nothing dishonourable in the appearance, or that may tend to mortify or discourage him, which, I am sure, is as far from the Duke's or your Grace's view, as from my own. As he has the honour to attend H.R.H. to Hanover, the whole will be best judged of there. One thing, indeed, I must beg for myself—that your Grace would tell me sincerely and plainly what you truly apprehend to have been the Duke's reason for the dislike he expressed when you first proposed it¹....

I can assure your Grace, with the strictest truth, that everybody highly approv'd the measures and conduct you had held on every point. Believe me, my dear Lord, I don't flatter, but nothing can be stronger than the approbation is here. Besides what your brother said publicly, he assur'd me in private that, however he might differ upon particular sentiments—for instance as to carrying the notion of the old system too far, or the like, he was entirely satisfied and pleas'd with your public conduct, and the orders and instructions you had given, in every part, and thought they could not have been righter....

Duke of Newcastle to the Lord Chancellor

[H. 61, f. 207.]

HANOVER, August ^{7th}, 1748.
_{18th}

MY DEAR LORD,

A thousand thanks for your kind, instructive letter of the 29th. I always take your hints, as you may see by my public despatches. Lord Sandwich is abominable². Was there ever such a treatment of the King and myself? I beg you to examine all that has passed, see whether there has been any contradiction in the orders I have sent, or indeed variation, except what was absolutely

¹ The Duke of Newcastle writes to H. Pelham on July 31, 1748: "I find both the Duke and Joe have a mind he should go to Paris."

² Lord Sandwich and Bentinck wished to conclude immediately without Vienna, and without the restoration of the Netherlands, the great object of the treaty for England and which could only take place if Austria signed, while the Duke of Newcastle, with a firmer grasp of the situation, represented the danger of separating from Vienna and on August 6, N.S. revoked the orders he had sent to Lord Sandwich to conclude separately with France in case the Court of Vienna remained obstinate, and desired him to adopt a policy of conciliation towards Kaunitz. His opinion was strengthened by the arrival of Sir T. Robinson with assurances of the conciliatory views of Austria, and the latter was instructed to carry on the negotiations at Aix in this sense. Lord Sandwich and Bentinck objected to the delay and change of policy, suspended the execution of the Duke's instructions and appealed to the King. See also H. 61, ff. 227, 243 sqq.

necessary from the variation of circumstances. But if there was, is the King to be used in this manner for any orders he shall think proper to send to his own minister? I say nothing of my friend Bentinck's part. They were both in haste to conclude. My Lord Sandwich has done all he could to spirit up England and Holland against me. The favour I have to ask of you is, that you would examine the case, tell me your own opinion, and what my other friends say and think upon it. It is cruel to be so used by one I had so much and so partially served, but sure, I shall learn in time. The King has agreed to the Duke of Richmond's going Ambassador to Paris after the Definitive Treaty is signed. Joe is still here in the best humour and spirits. He seems to have a mind to go before, or with, the Duke of Richmond. They want him, I suppose, as a second minister, and remain at Paris minister, when the embassy is over. I have no objection, if you like it. Joe will attend his master to England, when I have desired him to settle everything with the Duke of Richmond, the Duke of Bedford etc.; I have wrote to them both. You may be quite easy about the Duke; he loves and esteems Joe as much as you do; the only difficulty was his fears for him in so difficult and nice a conjuncture, and I believe thought he himself might be a little affected by it as having procured it for him when, perhaps, some people might think him too young for it. I have now told you the whole, but that whole is quite over. Joe says it was the Duke was doubtful about your opinion and inclination....I hope I am well with *you all*. Upon my word, I deserve to be so....Ever and unalterably yours,

HOLLES NEWCASTLE.

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 52.]

GREENWICH PARK, August 8th, 1748.

MY DEAR LORD,

I received about two hours ago the mail which came in last night and have taken a cursory perusal of all the letters, which I think of so great consequence that I have desired your Lordship may see them as soon as possible. The Duke of Bedford, being at Woburn and, as I understand, these letters not being to be sent to him there, I doubt everything is falling to pieces. The total misunderstanding between the Duke of Newcastle and the Earl of Sandwich and also Count Bentinck must render this difficult, but necessary, work of peace almost impracticable. I have had a private letter from my brother, wrote in some passion, but that would not signify much if it went no further, but I think I see he acts in a passion upon the greatest points; his letters and instructions upon the *précis* are plainly so; not that I think our Plenipo's have shewn great skill or ability in the management of that piece. Everything is referred to us for opinion, and at the same time His Majesty's is not only sent to us and his orders too, previous to anything we could

say upon this subject, but sent to the Greffier Fagel and the Prince of Orange also. How can my brother think men in their senses will give opinions contrary to these orders, and continue in the service of the Crown; and how can he think, supposing them to have any honour or conscience, that they will adopt the royal words if they are not consonant to their opinions, which I must with great truth tell you mine are not. I am most exceedingly concerned for my brother. He first drives all men of business out of office¹, and then, if those he substituted do not happen to act according to his mind in everything, he quarrels with them also. I write this to your Lordship, as I know you are his friend and as I believe you to be the man, if there is anyone, whom he will attend to, although your sentiments are not always the same as his Grace's. I do protest to your Lordship it is my concern for him only that makes me write this to you. I have not the least reason to take anything unkindly of him, and for my own sake the greater confusion affairs are in the better. I want to get out; I can't, if things go tolerably well; but if this sort of game is to go on, no man in his senses can be expected to labour in such a vineyard. Forgive me, my dear Lord; I beg of you to read these letters and those which came by the former messenger, and tell me when I see you, whether I am, or am not, in the right.

Yours most faithfully,

H. PELHAM*.

[On August 11, 1748, Henry Pelham informs his brother that he has had a long conference with the Chancellor on Tuesday, and another again yesterday with him and the Duke of Bedford, which lasted from half past seven till a quarter past one, when all the papers and letters concerning the negotiations for peace were thoroughly discussed. The Chancellor seemed very anxious that the treaty should not go off. (Printed in Coxe's *Pelham*, ii. 16. N. 31, f. 40.)

On August 12 (N. 31, f. 46; H. 61, f. 211), the Chancellor writes a long letter to the Duke himself on the necessity for hastening to a conclusion and overcoming the hesitation of the Court of Vienna, who should be shown that we were not quite in their power and might make peace without them. The idea that the maritime powers should bear the expense of maintaining the Barrier in the

¹ The Duke of N. never could keep on good terms with his subordinates who were apt, after basking in favour, to turn rebellious. Lord S., installed in place of Lord Harrington, had at first "succeeded to admiration." "A new favourite," writes the second Lord H., "was always a great one for the time with the old statesman." H. 60, f. 273.

* This relates to the difference with Sandwich, and Mr P. was afraid it would ruin the negotiation for a peace, which if not made, he would, or at least he *declared* he would, quit. H.

Netherlands in time of peace was quite impossible, and must be rejected. Perhaps the Empress would come in, if an extra £100,000, to which she was not entitled by the treaty, were given to her. After going into the details of the negotiations, he continues:] My heart is full, for I see our situation in a tremendous light, if we don't conclude. The alliance weaker than ever and more disjointed, the Russians sent back and our Fleet almost disarm'd; the Dutch scarcely at present to be call'd a power....Besides, if the negotiation is protracted to the session of Parliament, I forsee other difficulties arising from faction, new points started, addresses to insist upon popular, impracticable things etc. The only method to avoid this complication of mischiefs is to conclude as soon as possible on the foot of the preliminaries. The way of doing this seems, with humble submission, to be, first, to prevent the Court of Vienna from being master of the negotiation; but to preserve that (so far as the allies can have the direction) in the hands of Great Britain and Holland; secondly, not to insist upon or start points not essential, which cannot be carried....

P.S. For God's sake, my dear Lord, don't suffer it to come to a breach with Sandwich and Bentinck¹. The first is your own élève; you know how many people watch to find fault with you for employing him. It would give them the finest advantage in the world. As to the latter, if he is destroy'd in Holland, the greatest support of the English system is gone. The post stays².

Rev. Thos. Birch to the Hon. Philip Yorke

[H. 49, f. 141.]

LONDON, August 13th, 1748.

...The peace itself gives great offence at Leicester House, and the great person there does not conceal his dislike of it to all persons....The public papers took notice of his visit last week to the Vintners in their barge....When the illustrious visitant came on board, most of them retired in confusion to the further end of the barge; but Sir Daniel Lambert³, who was more used to the sight of his superiors from his having sat in the House of Commons, kept his ground. The great person began immediately with an invective against the peace, as having deprived England of the fairest

¹ The Hon. William Bentinck, Count of the Holy Roman Empire, son of the first Earl of Portland by his second wife, Jane, dowager Lady Berkeley of Stratton (1704-1774). He was for some time chief adviser of the Prince and Princess of Orange, a strong supporter of the British connection and friend and correspondent of the Duke of Newcastle and Lord H.

² See also his observations on the Articles of Peace. H. 242, f. 109.

³ M.P. for the City of London and Lord Mayor 1741.

opportunity it has ever had, or is likely to have, of destroying the power of France, and expressed his concern that he had not weight enough to prevent so ruinous a measure. Sir Daniel, in the spirit of an old Tory, made no scruple of declaring his sentiments against a war on the continent, and added that we were incapable of prosecuting it for want of money. But in answer to this last remark, he was told that money enough might have been had, if the proper persons had been in the direction of affairs....

Col. the Hon. Joseph Yorke to the Lord Chancellor

[H. 6, f. 373]

EYNDHOVEN, August $\frac{16th}{27th}$, 1748.

MY LORD,

...During my stay at Hanover...the King was as gracious as it was possible, and much more so than I could have expected or even hoped for. There was hardly a day that he did not speak to me, and always in a most gracious manner. I endeavoured to make the best use I could of so advantageous a reception, and I really flatter myself so far as to think I play'd my cards pretty well...On coming away the Duke told me that I had done prodigiously well; that I was a great favourite, and that he did not know one of his Family¹ that would have acted their part so well; that he was very glad he had an opportunity of producing me, and many such kind compliments. I trouble your Lordship with all these trifling details merely to show that I endeavoured to profit all I could of the wise and good advice you gave me....The Duke of Newcastle...was ordered by the King to tell me that he would have me be in readiness to go if he wanted me; that he liked me as well as anybody, and that he thought I should go to England to talk with his servants there....

Duke of Newcastle to the Lord Chancellor

[H. 61, f. 217.]

HANOVER, August $\frac{17th}{28th}$, 1748.

MY DEAR LORD,

I shall trouble your Lordship with a very short letter, for you will allow me to say I have no encouragement to trouble you with a long one. I did not imagine that you would have had affairs of such consequence, as these now depending before you, without giving me one word under your own hand². I less thought I should have received from my friends in my present difficult and delicate situation, so inconclusive or, at the least, so uninforming an opinion as that contained in the Duke of Bedford's last letter.

¹ I.e. his aides-de-camp.

² It was no easy matter for the ministers at home to judge between the Duke and Lord Sandwich; in England the only view was the necessity of concluding the peace.

We all know peace is necessary. The question is, what peace will you take? Everything is done to bring the Queen of Hungary in; that my brother disbelieves, but [it] is as true as any proposition in Euclid. The King thinks it is too dangerous to make any peace, and leave France in possession of all the Low Countries. The Lords are pleased to say, find an expedient; what expedient, speak out; will you make peace and leave Flanders in the hands of France? when will you get it from Marshal Saxe? will you disband your army, discharge your troops etc.? These questions must be answered. They are difficult and unpleasant to answer, but answered they must be. I have advised the King, and it is done, to send Munchausen¹ and Steinberg² to Wasner³, to acquaint the Queen of Hungary by a courier that the peace may be made in three weeks, if she will concur, and that if she will not, the King must act without her. Wasner's courier is gone away, and yet Mr Pelham kindly says, everything is done to shew the Queen of Hungary we will not, we cannot, act without her. And all this because the King is angry with Legge⁴ for having talked *falsely* and impertinently of me, and because I have not given into the wild, ignorant, indecent propositions of my Lord Sandwich which, by this time, all the world must see might have been fatal if I had, and is the most fortunate thing that I did not. I told the King, I well knew, when I first determined to attend him abroad, that I must answer for the whole; but if that must be so, it is very unkind in my friends not to give as much credit to me as to every little Jackynepse that has been two months in a foreign court. I do act upon a principle of integrity to my country and some knowledge of my business....

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 54.]

GREENWICH, August 21st, 1748.

...His Grace seems to think it an answer to everything that the Duke of Cumberland is of his opinion. I have all the honour and love for the Duke that is possible, but I must freely own to your Lordship I think him the most improper person my brother can refer to. His experience cannot be great, and his bias⁵ is naturally

¹ See for note, chap. xxix, N. to H. Aug. 3, 1757.

² Probably Ernest von Steinberg, Hanoverian state minister. His elder brother, Baron G. F., was Hanoverian envoy at Vienna.

³ Austrian minister in London.

⁴ Hon. Henry Bilson Legge (1708-1764), fourth son of first Earl of Dartmouth, M.P. for Orford; a Lord of the Treasury, afterwards Chancellor of the Exchequer. He had conducted the negotiation with the King of Prussia for an alliance with the maritime powers and the Osnaburg appropriation with success, but George II declined the advances of Frederick and disapproved of Legge's action, who was said to have declared that the King's arrival at Hanover had spoilt the project and that the D. of N. was led by the Hanoverian minister. He was severely reprimanded and, but for Henry Pelham's support, would have been deprived of his office. Coxe's *Pelham*, i. 441.

⁵ Towards Hanover.

where we should not, nor cannot go. You see by the turn of my brother's letter that he regards no advice of a friend, and fears no power of a foe. In such a situation, where may not a man be carried? And is it reasonable to expect every relation and friend should, with their eyes open, fall into the same gulf?...Another rupture will certainly happen, if we drive so fast; and for my part, I must declare to your Lordship, with all the coolness imaginable, it is not in my will, it is not in my power, to undertake another sessions of Parliament upon the foot of expense we are now going into, and that only to preserve a bigotted notion of Old System and the House of Austria¹....

Duke of Newcastle to the Lord Chancellor

[N. 31, f. 101; H. 61, f. 219.]

Aug: 21st
Sept. 1st, 1748.

...I am supposed to have impracticable pursuits which, in theory, may be wise and honest. Hints are flung out from my best friends, of my either meaning to be (or without meaning it, being) the dupe of the Court of Vienna. But this, my dear Lord, is no new thing to me. But it proceeds from what I have long known, that want of confidence and opinion of my knowledge and steadiness in business, which everyone in my situation ought to have....I defy the meeting at London, even with the assistance of my Lord Chesterfield and my Lord Harrington, to do or say anything stronger, or more likely to succeed, than I have done, [and in support, he quotes a series of former instructions issued by himself. He thanks the Chancellor for sending him definite advice, namely, after exhausting various expedients, to proceed on the plan of Lord Sandwich and appoint a term for the Empress to accede*].

Lord Chancellor to the Duke of Newcastle

[N. 31, f. 154; H. 61, f. 237.]

POWIS HOUSE, *Sept: 2nd, 1748.*

MY DEAR LORD,

I never in my life received so much mortification by any letter from your Grace, as by those of Aug: 17th and *Aug: 21st*.
Sep: 1st. The former made the less impression, as it proceeded from a misapprehension, which I knew must be removed before it arriv'd here; but the latter still gives me much inquietude. Not that I have so little discernment as to think the whole of it was

¹ This letter by no means does justice to the D. of N.'s negotiation which was, in fact, very ably conducted. The Chancellor answers on August 22 in the same sense as he had written to the D. of N. See Coxe's *Pelham*, ii. 21, where the letter is printed.

* This is a very able defence by the Duke of Newcastle of his conduct, but mixed with too much peevishness; my Father's answer is equally wise and affectionate to the Duke. II.

meant for me; for I see part of it was levelled at the place, whither the copy was sent. But my regard for your Grace is too sincere to suffer that to give me any real ease; because I am convinced that everything, which tends to irritate or create ill humour between you and your brother, must be attended with the worst consequences to both. It is a trite saying, *Litera scripta manet*; but it expresses the true difference between the same things, when spoken in conversation, and when put into writing. The one frequently passes off and is forgot with the day, but the other is lasting and may be recurr'd to and resum'd afterwards. As your Grace quotes the Duke of Grafton, give me leave for once to quote Sir Robert Walpole. You, as well as I, have often heard him say that he wonder'd any man could write in a passion. For my own part, I never wonder'd at it; but your Grace will not be angry with me for saying that I always thought it wrong. That opinion has been founded, not only upon the reason already mention'd, but another not less material in business. People who may be suspicious, or not always in a temper to make the most favourable constructions, may reason and infer (however unwarrantably) that he, who writes in a passion, may be surprized into acting in a passion, which may be attended with disagreeable consequences. I know your Grace is too prudent and too cautious to be subject to this; but it is best of all to avoid giving any handle to the suspicion.

Your Grace sees by this time, that even your reproofs and being angry with me are not sufficient to restrain me from using that freedom, in which your friendship and condescension for me have been wont to indulge me, by giving hints of advice. I trust to your experience of me to judge whether they do not proceed from an honest heart, sincerely devoted to you.

I will not enter into any discussions about the public business mentioned in your last letter. The subject is in a manner exhausted. But I must bespeak your Grace's patience to hear a few words to disculpate myself.

In the first place, I have not had any conversation with my Lord Harrington upon any public business whatever, nor so much as seen my Lord Chesterfield, since your Grace left London.

In the next place, though your Grace has combined in your answer, your brother's letter and mine, yet I assure you that there was no combination or concert in the writing of them. Neither have I so much as seen, or been privy to, any of Mr Pelham's letters to your Grace, or he to any of mine, till this joint answer

made such a communication necessary of the two last drafts and of those only.

But the most unkind supposition of all is, that your Grace lays it down as certain that some things I have said "proceed from that want of confidence and opinion of your knowledge or steadiness in business, which everyone in your situation ought to have." For God's sake, my dear Lord, have the goodness to reflect upon what grounds you could say that to me; who ever since I have been in business have shewn the greatest deference to your opinion, and the firmest attachment to your person in all circumstances. I am far from saying this by way of taking a merit to myself. It was your due, and I owed it to the many obligations by which you have bound me to be yours. I don't mean by this to insinuate that I have never differ'd from you in opinion in any public points. My regard for your Grace was too sincere, and too great, to permit me to conceal my opinion, tho' varying from your own. Such a behaviour I ever held to be the most dangerous kind of flattery. But then that difference has never proceeded from the cause you are pleased to assign; for I always saw and knew the zeal and uprightness of your heart in the cause of your country, and your abilities for its service; otherwise I should not have acted the part I have done.

But to go to the bottom of this supposition in the present case. We all agree in the end:—to bring in the Court of Vienna. The difference of opinion is about the means of doing it. And is not this a question concerning which, in a transaction so difficult and delicate, with so interested, obstinate and impracticable a Court, men of integrity and abilities may reasonably differ without any disrespect to each other? I am far from affirming that the method which your Grace is so clear in, and pursues, is not right, or will not prove successful. I hope in God it will in the event prove itself to be both, and the appearances leading to it, are certainly more favourable than they were.

Your Grace's complaint of the conduct of your friends in England turns on two points:—

1. The not giving an express approbation of the measure taken to communicate to Count Kaunitz the projet, contreprojet and précis, and also the new projet of a definitive treaty.

2. The not giving you the satisfaction of concurring in censuring the behaviour of the King's minister at Aix in suspending the execution of, and representing against, his Majesty's orders.

The first of these your Grace is pleased to call *being given up by your best friends in England.* Believe me, my dear Lord, you will never find me taking the part of giving you up. I never imagined that communicating one's thoughts in a private, confidential letter deserved that name. If it does, sure I am that there must be an end of all private communication of sentiments or doubts between friends, where there happens to be any difference of opinion.

[As to the wording of the Duke's letters, the Chancellor declares that nothing could be better; but as to communicating the negotiations to Kaunitz, he expresses his doubts.] Whilst the Court of Vienna persists in their resolution not to join with us in any general definitive treaty, nor to submit to accept the possession of the Austrian Netherlands on the foot of the Barrier Treaty, I think they have no right to such a detail'd, unreserved communication. Such a conduct cuts it short, and puts a bar against it *in ipso limine....* On the contrary, you must expect from them all possible arts, contrivances and intrigues to obstruct and defeat such a general treaty. [All that they could expect was to have the communication of the treaty, when fully agreed upon with France, and to be invited to join before signature.]

2. I now come to the second point....In the first place, I think that if a minister residing at a foreign court, or at a Congress, receives orders, the execution whereof he is persuaded may be attended with inconvenience to his Master's service, and that the suspending the execution of them for a few days will not be attended with any, it is his duty to represent his opinion and the grounds of it to his Court, and to wait for further orders. But undoubtedly this ought to be done with all possible duty and submission, and not in the way of remonstrance....

In the next place, I found your Grace was very angry, and at the same time I saw the mischief of its coming to an absolute breach, and the utility, not to say necessity, of your going on together. In that situation I never think it right to add fuel to the flame; by encouraging either of the two parties too much in their own way of thinking, bad is often made worse, and the breach becomes irreparable. This frequently makes it necessary to hold a different language to each of the persons concern'd.

Your Grace has now before you all that I can say in my own justification, to which I will add no more, but to beseech you, for the future, not to impute what comes from me to such causes as those

suggested in your last letter. It may very probably proceed from weakness, mistake, want of knowledge, nay, possibly from some prejudices of another kind; but it can never proceed from any prejudice or motive injurious to you, for whom I have the most sincere and cordial regard, attachment, and if you will allow me to say it, affection....I am with the greatest truth and respect,...

HARDWICKE.

[In answer to the Chancellor's of September 2, the Duke writes on September 17 (N. 31, f. 242; H. 61, f. 242) a long and exceedingly able letter, justifying his conduct of the negotiations and urging his opinion that the peace would be worth little, if settled without the concurrence of Vienna and without the restitution of the Netherlands, and would expose the administration to the censures of Lord Granville. At the same time he repudiates the personal interpretation which the Chancellor had put on his letter.] My dear Lord, you need not have given yourself so much trouble as to say all you have done in your justification. I know your goodness and partiality for me. I know your strength of judgment upon any point that you thoroughly consider; and from both these causes I am inclined to think you have not yet fully examined the present question, as it affects the public, and as it affects myself. [He sends a large packet of papers relating to the recent transactions, which he begs the Chancellor to peruse with candour and thoroughness.]

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 58.]

September 20th, 1748.

...I must beg you would come as soon as you can, for now is the crisis of the whole; we must not be shy in giving our opinions, nor postpone any longer. We have certainly now our option of peace on certain terms, or none at all....You know I would not press your leaving the country an hour before, in my poor opinion, it is absolutely necessary. There is no doing anything here without you; don't be angry therefore that I press your coming as soon as you can. I am sensible how necessary air, quiet and exercise is for your health, and how material your health is for the public as well as for all your friends, I need not say....

Lord Chancellor to the Duke of Newcastle

[N. 31, f. 341; H. 61, f. 321.]

Powis House, September 23rd, 1748

MY DEAR LORD,

...The new French projet of a Definitive Treaty, together with the despatches from Aix, occasion'd a meeting at my house last

night, of such of the Lords, who are usually consulted on secret affairs, as are in town....

They laid their weight on the following considerations :

1. The strong representations made by both our plenipotentiaries that France has delivered this as her ultimatum, and that it is come to the point that we must either conclude or break off.

2. The impracticability of renewing the war and the imminent danger, nay almost ruin, that may probably attend the breaking off the negotiations.

3. The evident proofs that the Empress Queen has in effect made her peace with France. And I own I think this does pretty plainly appear by her convention about withdrawing her troops, made without the privity of our plenipotentiaries....

4. That as France has entirely regain'd its influence over Spain, and is entered into this extraordinary connexion with the Court of Vienna, things will probably grow every day rather worse than better....I will make no observations on this conduct of an ally, who owes so much to the King and to this nation.

It is impossible, in my opinion, to agree to the description of the hostages, *to be two peers of Great Britain*. I doubt it would not be legal to insert such a clause in a formal treaty to be ratified. But however that may be, your Grace will immediately suggest to yourself what a flame it would raise in the House of Lords that his Majesty should bind himself, by a solemn act, to send two peers, an order of men vested with greater privileges than any other subjects, to be (possibly they will say in the event) prisoners for life....If peers should in any event be sent (tho' not specified)...it would be most advisable to send Scotch peers, not members of the House of Lords....

Ever most faithfully yours,
HARDWICKE.

[In answer to the Duke's letter of September 17 the Chancellor, on September 26 (H. 31, f. 367; H. 61, f. 325; partly printed in Coxe's *Pelham*, ii. 322), expresses his concern that the Duke should have been at such trouble to collect so many *pièces justificatives*; he had already said that the point was one "about which the reason of mankind might differ," and the Duke had undoubtedly mentioned very material arguments in support of the part he had taken. It was now all at an end.] I am confident that we shall not stick at small matters but proceed to finish the peace.

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 61.]

OATLANDS, Sept: 24th, 1748.

MY DEAR LORD,

...I send you a long [letter] I had from my brother.... I protest I don't understand the reasoning in any part, but as all is over and finished now, I am more at ease than I should be otherwise.... The Austrians are, and ever were, false, self-interested and proud beggars. We have been deluded by them long enough; the nation will be no longer so, and I hope our friends will not pursue what, I am certain, they will not be supported in. I write on this subject more dogmatically than I hope I do on any other, because I own I am provoked.... I wrote a long letter to my brother yesterday, calculated for his Majesty's seeing it. I spoke plain but not passionately. I begg'd they would send orders to the Plenipotentiaries to sign immediately, and not hamper them with restrictions and refinements. I recommend also an immediate reduction and withdrawing of our troops upon the signature of the treaty. What effect this will have I know not, but I can say, nor do, no more. For God's sake, go to Wimpole on Monday, and take as much air and exercise as your time and the season will permit....

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 63.]

ESHER, September 25th, 1748.

MY DEAR LORD,

...I cannot help beginning by returning to your Lordship my sincere thanks for the friendly part you have taken, with regard to us both, in your private letter to my brother. I am satisfied no more heat will arise between us in correspondence, because I have for some time determined, and by his Grace's approbation of the style I write in, you may judge I have followed closely my resolution, not to write my opinion of any public measures but what particularly concern my own department. I have long seen no reasoning signifies a farthing with his Grace; it must be an implicit resignation of your opinion to his, and a fulsome flattery of his own works, that will ever bring him to be satisfied with any correspondence. What a tedious, elaborate piece is that he has wrote to your Lordship, and what is there in it but to prove everything he says and does is right, because he says and does it; and of consequence whoever differs with him must, in his opinion, be in the wrong¹. I did not know, indeed, till now that all my private letters were sent to the Duke [of Cumberland]. I never wrote them with that intent, and for the future shall be cautious of what I say; but I can't help observing with some satisfaction that, as partial

¹ This is obviously not a fair criticism.

as H.R.H. is to the Duke of Newcastle, and as well as he knows that flattery and joining in opinion with him is the first principle upon which he acts, yet the Duke does not compliment his Grace with telling him that my letters are the most warm, or that they gave any occasion for such returns as I have received. What foundation has his Grace to send word to Lord Sandwich that there are those in England, who have certainly disliked everything he has done till now? I know he must mean me. I never told his Grace so, nor authorised him to tell Lord Sandwich so. I did indeed disapprove of his complimenting H.R.H. and his Grace to their own destruction, and I think the events have shewn it, I mean by amusing them that this war could be carried on another year, that Holland would bring such an army into the field as would turn the balance in our favour, when he must know, if he knew anything at all, that they were no government, that they were a bankrupt people, and could not pay the very small sums they owe to us for our advanced payments for them. This I disliked, and this is the principle upon which I have acted. If his Grace thinks my letters worth reading, he will find my difference of opinion with him was long before his quarrel with Sandwich and Bentinck....I now most heartily ask your pardon for troubling you with stuff, which relates not to the public nor much to anyone else. It was impossible for me not to make some observation upon the voluminous despatch his Grace wrote to you....I did in my last letter take the liberty to quote the words of Sir T. Robinson's letter to me, that his Grace may see those *ministers of fortune* adopt *what* they write to *whom* they write, and not to take everything for true stirring that comes from such hands, only because it coincides with his own opinion and wishes. I am sorry to see the ill-humour remain towards Lord Sandwich and Mr Bentinck, not from any personal affection to them, but from this reflection, that his Grace will, upon summing up his whole account, have agreed with nobody. We all know he quarrelled with every minister at home he was ever joined with; if it should be his fate to do the same with everyone he himself has sent abroad, I leave your Lordship to judge of the consequence. I conclude we shall soon hear whether his Majesty returns before the Birthday....I should be glad to know what day you think will be proper for the Parliament to be prorogued to....Forgive me for this long and disagreeable letter. I promise not to trouble your Lordship, nor any one else, with any more of this kind....I am with the greatest truth, regard and affection, my dear Lord, your Lordship's most obedient and faithful servant,

H. PELHAM*.

* It seems probable that, without my Father, there would have been an absolute breach between Mr Pelham and his brother. H.

Duke of Newcastle to the Lord Chancellor

[H. 61, f. 327.]

HANOVER, *Sept. 27th*, 1748.
Octr. 8th,

MY DEAR LORD,

...I now look upon the affair as done. This has been my sole object. *Per varios casus per tot discrimina* I have at length obtained it, at least I hope so. If I have been warm, if I have been vexed, or even passionate, the event (if it don't in some degree justify it), at least it puts an end to it. I am, with the truest sense of your friendship and the greatest desire of the continuance of it, my dear Lord, most cordially yours,...

HOLLES NEWCASTLE.

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 70.]

Sept. 29th, 1748.

MY DEAR LORD,

I had this day a letter from my brother at Hanover.... I also received a very extraordinary [letter] from the Duke [of Cumberland]....I protest I don't understand H.R.H., or else we have been in a wood all this while¹. Are we to make peace, to suffer our allies to withdraw their own troops, and perhaps run the risk of their employing them where we shall receive no benefit, and at the same time keep up our own contingent, save nothing to the public, and that only to make a weak defence against France, in case she should prove perfidious? They none of 'em seem to imagine the least that the Queen of Hungary has made up separate with France, when to me there is nothing plainer....I doubt not but you feel a little for me; all my hopes and expectations are baffled, if the Duke persists in this scheme; and here I am quite alone, no Secretary of State to notify the measures we think proper to have taken, and scarce enough to make even the form of a Regency². I am sure you don't think I include your Lordship in this observation....

Ever most truly and affectionately yours,

H. PELHAM.

Lord Chancellor to the Right Hon. Henry Pelham

[H. 75, f. 72.]

WIMPOLE, *Oct. 1st*, 1748.

...[Directly the Definitive Treaty was signed by all the Powers, he took it for granted that the army and the Duke of Cumberland would return to England; but a difficulty would arise, should Austria

¹ The question was the recall of the troops.

² The Duke of Bedford neglected his official duties and was always at Woburn.

refuse her concurrence, and the Austrian Netherlands and the French conquests from Holland be left at the disposal of the French. He wishes Mr Pelham to fully consider that point upon which nobody could form a better judgment. He would return to town, if necessary for the public service or for Mr Pelham's own satisfaction, which he had much at heart.]

[On October 1, 1748, the Duke of Newcastle writes in a very ill humour to Henry Pelham on the approaching conclusion of the peace, which had been entirely his achievement and for which, instead of congratulations from his friends, he receives only cavilling criticisms, especially from the Duke of Bedford, with notions put into his head by my Lord Chancellor, whose "learned¹" letter he would answer the first moment that he had leisure. He returns to England, in spite of his success, in "the light of a disappointed minister." N. 32, f. 12, printed in Coxe's *Pelham*, ii. 322.]

Lord Chancellor to the Duke of Newcastle

[N. 32, f. 27; H. 62, f. 3.]

WIMPOLE, October 4th, 1748.

[After congratulating the Duke on the happy coincidence in the opinions of the ministers on the peace, and the judicious character of the Duke's despatches, he adds :]

Never doubt, my dear Lord, of my most sincere and zealous endeavours to keep you in good humour, by doing everything within the compass of my poor abilities for your honour and service. I dare be confident that your brother will do the same, provided a little indulgence and yielding are shewn on both sides. You know his burden is the expense, and his great aim is to lighten that, as far as can possibly be made consistent with security.

Your Grace asks what Lord Anson thinks²? ... You know his value in his profession. He is a man of strict probity and honour, and with a little cultivating, you may keep him thoroughly connected with you.... We long for His Majesty's and your Grace's safe return with the olive-branch, and I am unalterably, with the truest attachment and affection....

HARDWICKE.

¹ No doubt on the subject of the peer hostages. See also N. 32, f. 92.

² He had married the Chancellor's daughter, Elizabeth, on April 25 of this year, and was paying his first visit at Wimpole.

Duke of Newcastle to the Lord Chancellor

[N. 32, f. 52; H. 62, f. 6.]

HANOVER, Oct. $\frac{9}{20}$, 1748.

MY LORD,

I have received the honour of both your Lordship's letters of the 23rd and 26th of September. Allow me to say that your notions upon Mon. Du Thiel's project¹ of the Definitive Treaty, and the opinion given upon it by the King's servants in England, did a good deal surprise me. I thought that my actions during this whole summer, (if my professions did not), must have convinced everybody, that a treaty formed to comprehend all the King's allies, and which the King's servants in England think so much to the taste of the Court of Vienna, would have been as readily and as eagerly adopted by me, as by anyone of their Lordships (especially under the delusion that I am, of thinking that I have, almost singly, brought this Treaty to the perfection it is now in,) and therefore so much earnestness need not have been express'd, and the Duke of Bedford need not have been under such apprehensions of losing this favourable moment....

Your Lordship's last letter gave me much more concern than the first, by which I find that nothing that I can say, and nothing that I can do, is approved by your Lordship. By the last letters from the plenipotentiaries, the day was appointed for the signing. For the signing of what? A general peace, to the satisfaction of the Court of Vienna, to the satisfaction of the Republic of Holland, wherein the cessions to, and interests of the King of Sardinia...are...effectually secured..., [and] no variation from the preliminaries in any point that related to Great Britain, except as to the assiento....

Your Lordship is pleased to say that I have mentioned very material arguments for the part I took; which puts me in mind of my Lord Townshend's answer to my Lord Stanhope, when my Lord Stanhope transmitted to him from Hanover the project of the Quadruple Alliance, the best and greatest political system that has been form'd this last age, which was, "that it was like everything that came from my Lord Stanhope; it had a great deal of good in it." My fate is a little hard. I expected favourable interpretations and kind excuses from my friends, if I had miscarried. But I did not expect silence, and that other causes would have been assigned, when the success has fully answered my expectations, who, I am afraid, was more sanguine than any of my friends.

This brings me to submit very seriously to your Lordship's consideration, that it is impossible for me to answer for the success of the King's foreign affairs upon this foot. My brother has told me that there was always an acting secretary. That acting secretary

¹ Clerk of the French foreign office, sent on September 5 to hasten the negotiations.

(tho' I have been in the office above four and twenty years) has never till now, been allowed to be myself; and I see how near I have been, with the best intentions in the world, to have the public disapprobation and censure of my friends for what I was doing. I do not talk of quitting, and have no thoughts of it. But I beg your Lordship and my brother to consider, that it is impossible for me to expose myself, as I have done this summer, if the volatile opinions and unjustifiable conduct of every young minister that is sent to a foreign court, shall be adopted and supported by my brethren in the administration. If I am to continue, nobody shall be employ'd in a foreign court, in my department, who shall think himself, (or at least that shall declare to me and to the world that he is) wiser than I am. In England you think everything carpet-ground here; but I can assure you, you are greatly mistaken. Uneasy hours and uneasy days I have had. But, my Lord, I have comforted myself with not having taken one step but according to my conscience; and I think every one has, more or less, had its desired effect....

However they have gone to my heart, I have shown none of your Lordship's or my brother's letters, upon these subjects, to the King; tho' I have not concealed from His Majesty that I had the mortification not to be approved by my friends at home, and I did once say it was a very unhappy situation to be disapproved at home and disobeyed abroad.

As I have the greatest regard and affection for my brother and you, I should not deal fairly by you, if I did not tell you my thoughts. I am most extremely hurt. I think I am unkindly used. It may be a paradox, but I hope I am unkindly used. For, if I am not, I deceive myself with too good an opinion of myself, and of the success of the measures that I have pursued this summer. ...I hope you will not take this letter amiss. I have now discharged myself, and you shall hear no more, in writing at least, of this summer's expedition....

[He writes on the same day [f. 70] to Henry Pelham in the same sense and mentioning] this late mortification to add to the continual ones I receive from England [that the King's manner has changed to an exceedingly unfavourable and unfriendly one.]

Duke of Newcastle to the Lord Chancellor

[N. 32, f. 128; H. 62, f. 33.]

HANOVER, Oct. $\frac{16th}{27th}$, 1748.

MY DEAR LORD,

...I am sorry to find you all think as you do in England upon the measure and author of it. Abroad they think otherwise of both, of which I shall bring you strong testimonials....This, I beg, my friends would be assured of; that if they continue to disapprove my past conduct, and I find (as I conclude, I shall)

that the enemy whisper it about, no considerations on earth shall hinder me from bringing this matter into Parliament. I am very indifferent about my ministerial situation, but I will not pass *at home* for a fool or a knave, when I know I am not, or at least can prove I am not in this point of dispute... I conclude you will be angry with me; I can't help it. I am horribly hurt; every messenger, that comes from England, adds to it. I have done in three months what Lord Townshend and Lord Harrington could not do in three years; and yet I am not thank'd for it, nor acknowledged to have done it. It may be vanity, but vain I am.... You shall always find me your affectionate and sincere friend, tho' at present your angry humble Servant,

HOLLES NEWCASTLE.

H.R.H. the Duke of Cumberland to the Lord Chancellor

[H. 1, f. 14.]

HEADQUARTERS OF EYNDHOVEN, Oct. $\frac{18th}{29th}$, 1748.

MY LORD CHANCELLOR,

I thought it was proper, and hope it will be at the same time agreeable to you, to send you the enclosed extract of a letter Lord Sandwich wrote to the Duke of Newcastle, on Sunday last, when he was at this place in his way to the Hague, as it relates to the most material objection yet started to the Definitive Treaty, and presses his former proposal for remedying any difficulty that might arise to the propriety of putting the Great Seal to it. I have, from the beginning, been extremely against consenting to send any hostages to France, though I can't say I was so far master of the subject as to be able to judge of the legality of it; since I have heard of your objecting to it, I own I have been uneasy; and wish with all my heart some method may be thought of to avoid the ratification of that article. My own private thoughts suggest to me no reason at present for not coming in to Lord Sandwich's proposition.

Let the manner of ratifying the treaty be as it will, we are all agreed that two peers must be sent, and I am far from thinking they should be insignificant people; nay, I think I can see many material objections to their being both Scotchmen. Men of business, to be sure, are not wanted, but men of some credit and fashion in the world are absolutely necessary, not only to do honour and by that means service to the nation, but to give the French a good notion of our determination to fulfil religiously the engagement we have contracted. Give me leave, my Lord, to recommend this to your consideration, and if they are to be found, let them be such as we need not be ashamed of. You see the French ministers lay a very great stress upon this point; and since we are to comply with it, let us do it handsomely.

In a letter I received some days ago from the Duke of Newcastle,

speaking of the persons designed for foreign ministers, he mentions your son as proposed to be joined with the Duke of Richmond, and left to reside at Paris when the Embassy is over. I have returned no answer to that particular of his letter, because I did not think it proper in respect to you to accept or refuse such a thing for Col: Yorke without your approbation. Besides, my friend, the Duke of Newcastle never has understood the affair as we have all done, and if I don't greatly mistake, as you told me you did, to be as *Secrétaire d'Ambassade*. As we never objected to it in that light, why should it not remain so¹? Anything further is a future consideration and may be convenient, or not, as things turn out; at present, I think if you approve of it, it will be better to let it remain in the light it was proposed and understood by us. For my part, I shall be very glad to act in it as will be most agreeable to you and your son, but it seems to me most eligible as we took it.

I can't conclude my letter without congratulating you on the happy conclusion of the Definitive Treaty. We have all reason to be pleased with the manner it is finished in, and I hope the nation will soon reap the benefits of it. I remain always your very affectionate Friend,

WILLIAM.

I hope you'll excuse my making use of Col: Yorke's hand, but I believe it won't be the less welcome.

[The Chancellor replies on October 25 [H. 242, f. 181], expressing himself as fully satisfied.]

Right Hon. Henry Pelham to the Lord Chancellor

[H. 75, f. 74.]

GREENWICH PARK, Oct. 22nd, 1748.

MY DEAR LORD,

...His Grace is fuller of complaints and vanity than ever. He says he has wrote a long one [letter] to your Lordship, in which he has spoken his mind thoroughly; I hope he has done it on a more reasonable foundation than these to me. I own it vexes and hurts me that, in the midst of all public joy, these disagreeable incidents are perpetually to happen. I just wrote a short answer, not having time for more, acknowledging the receipt of his letters, wondering what it was that made him uneasy, but at the same time fairly owning that I was quite wearied out with these reiterated and unjust complaints of his friends; that I knew no one that had done wrong by him, that for myself I was sure I had acted upon a different principle, that I had not so much as touched in any of my letters upon the late differences between him and those *he* and *he* alone sent abroad; that I could not flatter one I loved, and less

¹ Col. Y. writes to the same effect to his father, H. 6, f. 389.

so when it was called for¹. I think this is the substance of my letter to his Grace; when I come to town I will bring with me those he wrote to me for your Lordship's perusal. As to the business part of my correspondence, I scarce ever have any answer, at least, not till a post or two after he has received my letters....

I cannot but stand amazed at the impudence of the Court of Vienna; to make a demand of £100,000 of us, as a kind of condition for exchanging the ratifications, is, after their late behaviour, an instance of assurance beyond example². I am sorry to see my brother give the least into it. I have wrote the Duke of Bedford word, as I do now to your Lordship, that nothing shall make me come into it*. I see the behaviour of that Court in a very different light from what my brother does, and I think this very packet proves that I am in the right. Do not think I intend to enter into the dispute, for I assure your Lordship I do not. All I mean by it is to justify myself to your Lordship, in declaring that I never will come into the project of giving that Court £100,000, as a reward for their imperious and ungrateful behaviour. Forgive me, my dear lord, for presuming to open my mind thus freely to you. I once thought your Lordship could, when you set heartily to work, convince the Duke of Newcastle when his suspicions were ill founded, but I doubt now it is no more in your power than in his, who will ever remain,

Your faithful and obedient servant,

H. PELHAM.

Lord Chancellor to the Duke of Newcastle

[N. 32, f. 192; H. 62, f. 53.] POWIS HOUSE, Oct. 25th, 1738 (*i.e.* 48).

MY DEAR LORD,

The three letters which I had the honour to receive from your Grace, late on Friday night, have filled my mind with the greatest concern and uneasiness. And my uneasiness is the greater because, as the business of the term is now come upon me, together with that multiplicity of public business, which your Grace knows the dispatches of that post brought and the present scene of affairs furnishes, I really have not time to enter into all the particulars.

¹ "I must own to you freely I am tired of your complaining letters....Letters of flattery, especially when they are called for, I can't write." H. 62, f. 72. These were scarcely what might be called soothing expressions. The Duke's answer, H. 62, f. 74.

² This was a portion of the Austrian subsidy only payable, however, on the fulfilment of the Austrian obligation to furnish her quota of the troops, which had not been done. It was, however, now held out as a *douceur* to that Court to sign the Treaty.

* Mr Pelham did afterwards support in part the demand of the Court of Vienna, and it went down with little difficulty. H.

It grieves and wounds me to the heart that your Grace should entertain any suspicion that your friends here, particularly myself, should have acted, in any instance, with an intention to detract from your merit in bringing about the conclusion of a definitive treaty to comprehend all the King's allies, or at least not to ascribe to your Grace all that merit in it which so justly belongs to you. I protest before God I am clear of any such intentions, and so I verily believe are the other persons concerned. I sincerely think your Grace has all the merit in it, which any minister ever had in any the most important and best conducted negotiation. I think that, in the progress of it, you have shewn as much ability, courage and zeal for the service of your King and of your Country and for the good of the alliance in general, as any minister ever exerted, and have avow'd, and shall avow it, in all places, and to all persons. If I have been short in my expressions of those sentiments, I am very sorry for it; but (if I have been so) it has proceeded from an opinion that your Grace knew, and did not doubt my heart....Besides, my letters (too long in themselves) have generally been writ in a very great hurry; all drawn and copied with my own hand, and the time for doing it stolen (as it is now) from my necessary sleep.

I was in great hopes that the altercation about the difference of opinion, concerning the method of proceeding, had been quite over. I don't remember that, during the course of it, there has been in any one public letter any expression of a disapprobation of the part your Grace took. I am sure I never gave my opinion that there should. As to laying before you my doubts and fears, and even my opinion, in private letters, I thought it was owing to that friendship and confidence with which you have always honoured me, and my duty as an honest man, to lay them before you nakedly as they were, and little imagined that I should have displeas'd by so doing. But the success of your Grace's measure has sufficiently proved the propriety of it, and will silence every gainsayer. Political points are often problematical, and admit of variety of opinions. Success is an irrefragable decision. But, if this had not succeeded, you should (notwithstanding what has pass'd) have found me, not only far from blaming, but defending it. [The Duke had entirely misapprehended the tone of the Duke of Bedford's letter and other incidents.] As to what your Grace says about bringing the question concerning the method of proceeding before the Parliament, for God's sake, my dear Lord, do

but reflect coolly upon it for one moment. How can it be, after the business concluded and the event over, unless it be right for an administration to raise points upon themselves? I cannot learn that the Enemy knows one word of it....The messenger waits, and I have not time to say more. I could say a thousand things by way of expostulating, and perhaps a little complaining in my turn. I choose to avoid it. I have always had the most faithful and affectionate attachment to your Grace from which I have never deviated, nor ever will. I have had the honour to serve long with you, and will never serve without you; but such repeated, severe correction I hope I have not deserved, and find it a little too heavy. In all circumstances I am, and ever will be, unalterably, my dear Lord, most unfeignedly and affectionately yours,

HARDWICKE.

I heartily wish your Grace a safe and happy journey hither, where you will be cordially welcomed by your friends and the whole nation.

[On October 30, 1748 (N. 32, f. 227; H. 62, f. 70), the Duke sends the Chancellor another protest, complaining of his brother's "unkind and undeserved letter," and forwarding a packet of papers in his justification.

On November 1 (N. 32, f. 249; H. 62, f. 78), the Chancellor writes again disclaiming all thoughts of disapproval of the Duke's policy and diplomacy.

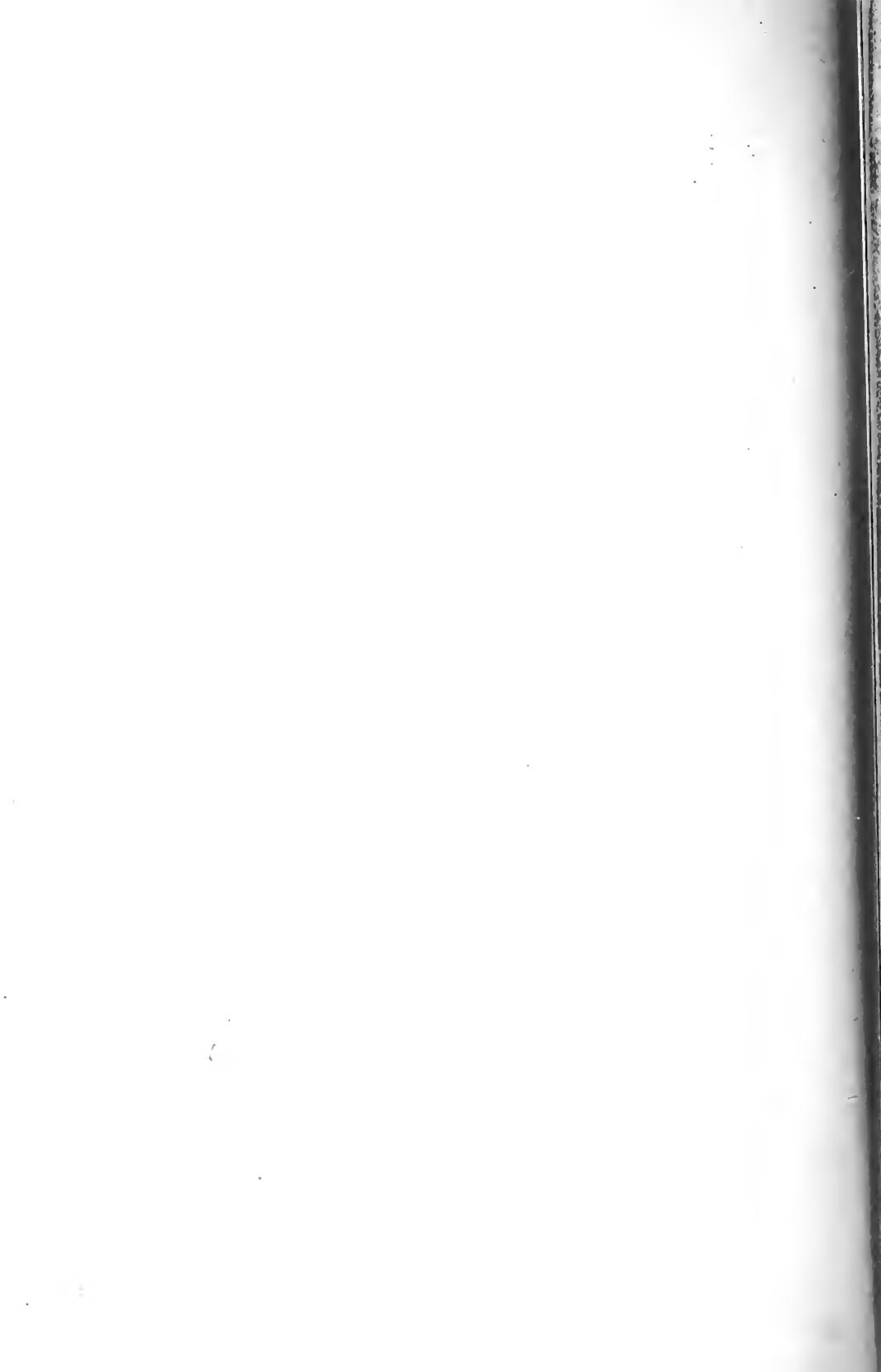
The discussion is continued by the Duke in a letter of November 2 (H. 32, f. 255; H. 62, f. 80).]

END OF VOL. I.

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